

EXHIBIT B.5

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

Page 1

1 MARK I. SOKOLOW, et al., * IN THE UNITED STATES
2 Plaintiffs, * DISTRICT COURT
3 vs. * FOR THE SOUTHERN
4 THE PALESTINE LIBERATION * DISTRICT OF NEW
5 ORGANIZATION, et al., * CIVIL ACTION NO.:
6 Defendants, * 04cv397 (GBD) (RLE)
7 * * * * *

8 DEPOSITION OF:

9 JEFFREY ADDICOTT,
10 was held on Wednesday, October 2, 2013,
11 commencing at 8:01 a.m., at Miller & Chevalier,
12 655 15th Street, N.W., Suite 900, Washington,
13 D.C., before Cheryl Jefferies, Certified
14 Shorthand Reporter.

15 * * * * *

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

		Page 2			Page 4
1	APPEARANCES:		1	I-N-D-E-X (cont'd.)	
2			2	EXHIBITS:	PAGE:
3	On behalf of the PLAINTIFFS:		3	248	Chapter 6 - Terrorist Groups 120
4	KENT A. YALOWITZ, ESQ.		4	249	U.S. Department of State report 129
	TAL R. MACHNES, ESQ.		5	250	Suicide bombing in the Beit 137 Yisrael neighborhood in Jerusalem March 2, 2002
5	ARNOLD & PORTER, LLP		6	251	Page from Targeting Terror 168 by Matthew Levitt
6	399 Park Avenue		7	252	July 9, 2001, Special Dispatch 180 No. 237, MEMRI
7	New York, NY 10022		8	253	Suha Arafat admits husband 185 premeditated Intifada
	(212) 715-1195		9	254	Email debate: Yigal Carmon and 191 Brian Whitaker
8	E-mail: Kent.yalowitz@aporter.com		10	255	No Longer Obscure, Memri 194 Translates the Arab World: But
9	Tal.machnes@aporter.com		11	13	Detractors Say a Right-Wing Agenda
10	On behalf of the DEFENDANTS:		12	14	Distorts Think-Tank's Service to Journalism
11	ANDREW WISE, ESQ.		15	15	Analysis of Attacks in the Last 197 Decade 2000-2010
12	BRIAN HILL, ESQ.		16	17	H.R. 5500 210
13	MATTHEW T. REINHARD, ESQ.		18	18	H. Con. Res. 426 212
14	MILLER & CHEVALIER CHARTERED		19	19	H.R. 5522 215
15	655 15th Street, N.W.		20	20	Congress criticizes Palestinian 217 ties, JTA
16	Suite 900		21		
17	Washing, D.C. 20005				
18	(202) 626-5800				
19	E-mail: Awise@milchev.com				
20	Bwise@milchev.com				
21	Mreinhard@milchev.com				
		Page 3			Page 5
1	I-N-D-E-X		1	I-N-D-E-X (cont'd.)	
2	Deposition of Jeffrey Addicott		2	EXHIBITS:	PAGE:
3	October 2, 2013		3	261	S. 1377 219
4	EXAMINATION BY:	PAGE:	4	262	Rebuttal report 223
5	Mr. Wise 5		5	263	Yasser Arafat, TIME 225
6	EXHIBITS MARKED:	PAGE:	6	264	Fatah and Hamas: The New 238 Palestinian Factional Reality, CRS Report for Congress
7	238 Expert Report of Dr. Jeffrey 6		7	265	The PLO and Its Factions, 245 CRS Report for Congress
8	F. Addicott		8	266	Terrorism Havens: Palestinian 253 Authority, Council on Foreign Relations
9	239 E-mail dated 21 March, 2013 8		9	267	Terrorism: Near Eastern Groups 257 and State Sponsors, 2002, CRS Report for Congress
10	240 Expert Report - Americans Killed 12		11	268	The Palestinians: Background 261 and U.S. Relations, Congressional Research Service
11	241 Expert Report PA Sponsorship of 12		12		(Original exhibits retained by counsel.)
12	Terrorism		13		
13	242 Invoice 20		14		
14	243 Photocopies from Terrorism Law, 36		15		
15	The Rule of Law and the War on		16		
16	Terror, Second Edition		17		
17	243A Terrorism Law, The Rule of Law 47		18		
18	and the War on Terror, Second		19		
19	Edition		20		
20	244 E-mail from Rachel Weiser to 39		21		
21	Brian Hill dated 5/22/13				
	245 TIME Article-The Work of Assassins 52				
	246 Professor Addicott Public Speeches 67				
	247 Addicott Media Appearances 67				

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

	Page 6		Page 8
1	P-R-O-C-E-E-D-I-N-G-S	1	A. What portions of it? Well, the report
2	(Defendants' Deposition Exhibit Number	2	was given to me as a draft, and I made
3	238 was premarked for identification.)	3	corrections on the draft. Of course, looking at
4	WHEREUPON --	4	it right now, I can't really recall exactly where
5	JEFFREY ADDICOTT,	5	the corrections were. So that's my answer.
6	a Witness called for examination, having first	6	Q. The draft that was provided to you,
7	been duly sworn, was examined and testified as	7	who provided it to you?
8	follows:	8	A. It was provided by Rachel Weiser, I
9	EXAMINATION	9	think is her last name.
10	BY MR. WISE:	10	Q. And what office does she work with?
11	Q. Good morning.	11	A. I'm not really sure.
12	A. Good morning.	12	Q. Are you familiar with a person named
13	Q. Can you state your name for the	13	Nitsana Darshan-Leitner?
14	record, please?	14	A. I have not met her, but I've seen some
15	A. Jeffrey Frank Addicott.	15	e-mails with her name on it, yeah.
16	Q. And, Professor Addicott, what is your	16	MR. WISE: Can we mark this as 239.
17	home address?	17	(Defendants' Deposition Exhibit Number
18	A. Currently I'm at 105 Wood Glen in	18	239 was marked for identification.)
19	Boerne, Texas.	19	BY MR. WISE:
20	Q. And your Social Security Number?	20	Q. Professor, that's Exhibit 239.
21	A. 215-64-5044.	21	A. Okay. I see it.
	Page 7		Page 9
1	Q. I'm going to show you what has been	1	Q. 239 is an e-mail from Ms.
2	marked as Defendants' Deposition 238. Do you	2	Darshan-Leitner to you, correct?
3	recognize that document?	3	A. Yes.
4	A. I do.	4	Q. And the e-mail address,
5	Q. And what is it?	5	Jaddicott@stmarytx.edu, that is your St. Mary's
6	A. This is a copy of my expert opinion	6	University Law School e-mail address, correct?
7	report that's dated 22 March, 2013.	7	A. Yes, it is.
8	Q. On Page 27 of the document, is that	8	Q. Looking at Exhibit 239, was that your
9	your signature?	9	first contact with Ms. Darshan-Leitner?
10	A. It is. It is my signature.	10	A. I can't really recall.
11	Q. And you signed this on March 22nd,	11	Q. What do you recall about your first
12	2013?	12	contact with her?
13	A. Yes, I did.	13	A. Well, I was contacted by several
14	Q. And it appears that you had the	14	individuals, and they asked me to look at a draft
15	original notarized; is that right?	15	and sent me that draft to see what I thought
16	A. Yes.	16	about the draft, and that was my first contact.
17	Q. Declaring under penalty of perjury	17	But I don't, you know, exactly remember. I look
18	that the foregoing is true and correct?	18	at the dates here, March, it appears to be
19	A. Absolutely.	19	approximately the time that they contacted me.
20	Q. Let me start by asking you what	20	Q. You said a few people contacted you?
21	portions of this report did you personally write?	21	A. I think Rachel contacted me and this

<p style="text-align: right;">Page 10</p> <p>1 other individual contacted me. I've never met 2 either of them in person, so I can't put a face 3 to a name.</p> <p>4 Q. And when they contacted you initially, 5 was it by telephone or was it by e-mail?</p> <p>6 A. Telephone.</p> <p>7 Q. Do you know how they came to know 8 about you?</p> <p>9 A. I do not know. I would assume, and 10 this is just an assumption, that they'd heard 11 about the Center For Terrorism Law, where I'm the 12 director and the founder. We're an 13 internationally recognized institute at the law 14 school, so I assume that they probably came 15 across my name in media reports or something of 16 that nature.</p> <p>17 Q. The substance of the first phone call, 18 what do you remember about what they asked you to 19 do?</p> <p>20 A. Well, I mean, the main point was to: 21 Would I be willing to look over a draft or to</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. Looking at 239, the e-mail, you'll see 2 on the bottom of that two attachments.</p> <p>3 A. Right.</p> <p>4 MR. WISE: So let me ask the court 5 reporter to mark this document as Exhibit 240. 6 (Defendants' Deposition Exhibit Number 7 240 was marked for identification.)</p> <p>8 MR. WISE: And this as 241, and I will 9 show them to you together.</p> <p>10 (Defendants' Deposition Exhibit Number 11 241 was marked for identification.)</p> <p>12 BY MR. WISE:</p> <p>13 Q. Professor, looking at Exhibit 240, do 14 you recognize that as the Word document attached 15 to Ms. Darshan-Leitner's March 21 e-mail titled 16 Expert Report - Americans Killed.doc?</p> <p>17 A. I believe that's correct.</p> <p>18 Q. And do you recognize 241 as the Word 19 document titled Expert Report PA Sponsorship of 20 Terrorism.doc?</p> <p>21 A. Yes, I believe that's correct as well.</p>
<p style="text-align: right;">Page 11</p> <p>1 write an expert opinion piece on the subject. 2 And as I recall, they had a rather short time 3 line, and I said that I would be willing to do 4 so.</p> <p>5 Q. How long after that phone call did you 6 receive the draft that they had referenced?</p> <p>7 A. Again, if you looked at my CV, you can 8 see that I do about a hundred -- well, between 50 9 and a hundred media interviews each month. I do 10 like five to ten speeches each month. I'm a 11 full-time law professor, so a lot of activity 12 going on. So I really don't recall, but it was a 13 short period. Perhaps days, but I can't recall.</p> <p>14 Q. When they said that they wanted to 15 know whether you would be willing to read a draft 16 or write a draft about "the subject," what was 17 "the subject" as they identified it to you?</p> <p>18 A. Well, it was concerning the issue of 19 the Second Intifada and the role that the PLO and 20 Yasser Arafat and the PA had played in the 21 violence associated with that event in history.</p>	<p style="text-align: right;">Page 13</p> <p>1 Q. The two Word documents, Exhibit 240 2 and 241, you did not write these drafts, correct?</p> <p>3 A. No, I didn't pen these drafts; that's 4 correct.</p> <p>5 Q. Those were written by someone 6 presumably associated with Ms. Darshan-Leitner, 7 correct?</p> <p>8 A. I do not know, but I know that she 9 sent me those drafts and asked me to look at 10 them, to research them, and I did so.</p> <p>11 Q. Do you know who did pen them?</p> <p>12 A. I have no idea.</p> <p>13 Q. Did you ask her who wrote them?</p> <p>14 A. No.</p> <p>15 Q. Do you have any reason to believe that 16 you received 240 and 241 prior to the e-mail that 17 is marked as 239?</p> <p>18 A. Well, again, I don't think so, but I 19 don't know. I see the name on the e-mail. It 20 looks vaguely familiar, and I'm assuming that 21 that e-mail -- that these two documents as</p>

<p style="text-align: right;">Page 14</p> <p>1 attachments are the two documents that reflect 2 that they are attached in the e-mail. 3 Q. When you say that you looked at the 4 drafts and researched them, what did you do to 5 research them? 6 A. Well, the first thing I did, of 7 course, is looked at the footnotes, and I've got 8 that here. I went through each footnote, 9 reproduced a hard copy to look at the footnotes, 10 read the paper. I did make some changes to the 11 draft, and -- so that's what I did, yeah. 12 Q. When you made changes to the draft, 13 did you do it in pen and ink, or did you do it on 14 the computer? 15 A. That's a good question. I do not 16 recall whether I did it on the paper and scanned 17 it and sent it back, or whether I typed it and 18 sent it back. I don't recall. 19 Q. And then tell me how the process 20 worked after you sent your edits back to them, 21 what was the next step?</p>	<p style="text-align: right;">Page 16</p> <p>1 professional opinion. 2 Q. The materials in the footnotes, you 3 said you compiled those? 4 A. Yeah. Well, I -- yeah, I researched 5 them. I mean, I printed them out, looked at 6 them, checked to make sure that they're accurate. 7 Yeah. 8 Q. Did Ms. Darshan-Leitner send you any 9 of the source materials that were cited in the 10 footnotes? 11 A. Not that I recall. 12 Q. Do you recall whether there were any 13 materials that you were unable to locate? 14 A. Well, I think there was one footnote 15 that I was unable to recall, yeah, one that I was 16 not able to locate. I think that would be 17 Footnote Number 1, which was a YouTube video. 18 Q. And so what did you do when you 19 couldn't locate Footnote 1? 20 A. What do you mean what did I do? 21 Q. Did you strike that citation from the</p>
<p style="text-align: right;">Page 15</p> <p>1 A. Well, I don't have the e-mails in 2 front of me, obviously, but I would assume that 3 my changes were incorporated into the draft, and 4 it was sent back to me to look at again, and 5 that's what occurred. 6 Q. Your report -- well, before you signed 7 it on the 22nd of March, what did you do to 8 review the document to make sure that the changes 9 that you had made had been incorporated? 10 A. I read the document. 11 Q. And do you recall whether you read it 12 and compared side-to-side the edits that you had 13 sent? 14 A. I believe I did because I'm not going 15 to sign something unless I adopt it as my 16 professional opinion, so I'm pretty meticulous 17 about what I sign, so yes. 18 It would be my habit to do so. Again, 19 I've written over 60 periodicals. I do a lot of 20 writing all the time. But I do not sign anything 21 unless I can affirm that it reflects my</p>	<p style="text-align: right;">Page 17</p> <p>1 report? 2 A. No, because it was consistent with 3 other, you know, videos that I'd seen, so I 4 couldn't locate that precise one, but I did not 5 strike that one footnote. 6 Q. What were the other videos that you 7 had seen that were consistent with that YouTube 8 video? 9 A. Well, they're listed in the footnotes. 10 I mean I can read them through with you if you 11 want. 12 Q. Other footnotes in the report, you're 13 saying, are consistent with Footnote Number 1? 14 A. Well, not just -- yeah, I mean there's 15 a mosaic that fits together. So that one 16 footnote, though, I couldn't locate the YouTube 17 video. I did not view that YouTube video. 18 Q. And that's the only source that you 19 did not view before you signed your report? 20 A. That's the only source that I did not, 21 could not obtain, that I recall. Let me just</p>

Page 18	Page 20
<p>1 check real quick and see if I've got any others 2 here. I've got them all labeled. 3 (Witness Reviews Documents.) 4 A. I've got a star here on this one. Let 5 me see what that says. No, that's good. I've 6 got a star on this one, on 42. That's good. 7 Q. What was the significance of the 8 stars, when you put a star next to something? 9 A. These are congressional resolutions 10 which I found very enlightening. 11 Q. So the star just meant that it was 12 particularly relevant to your analysis? 13 A. Yes, as when you would highlight 14 something to recall your attention to it. 15 Q. Can you tell me which documents you 16 noted you had starred? 17 A. Yeah. Looks like I had put a star on 18 Footnote 30, 37 and 42. Let me see if there's 19 anything else. Yeah. 20 Q. So the report that you signed, Exhibit 21 238, on Page 11 states that your fees for</p>	<p>1 Q. And who was the audience? 2 A. The audience was a -- it is 3 videotaped, so it was given to a larger, wider 4 audience, but it was mainly for a law enforcement 5 officials and a university in Laredo. I think it 6 was the -- it's one of the Texas universities. 7 Q. Okay. 8 A. But I'd have to check my -- as I said, 9 I've almost done 700 speeches in the last 10 10 years, and I'd have to check my notes to see 11 exactly what that audience was. I do remember 12 the fee. 13 MR. WISE: Can I have that marked? 14 MR. YALOWITZ: Mr. Wise, they're 15 looking for speakers if you're interested. 16 (Laughter.) 17 (Defendants' Deposition Exhibit Number 18 242 was marked for identification.) 19 BY MR. WISE: 20 Q. That is Exhibit 242. 21 A. Yes.</p>
<p style="text-align: center;">Page 19</p> <p>1 preparation and testimony in the instant matter 2 are \$300 per hour plus expenses, correct? 3 A. That's correct. 4 Q. How does that fee compare -- well, let 5 me ask you this: You've spoken about other 6 speaking engagements? 7 A. Uh-huh. 8 Q. Do you have an hourly fee for those 9 engagements? 10 A. It depends on the audience. 11 Q. How does your rate in this matter 12 compare to rates that you charge for other 13 speaking engagements? 14 A. It depends on the audience. I've been 15 paid up to \$13,000 for a speech, and I've been 16 paid zero for a speech, so it just depends on the 17 audience. 18 Q. The \$13,000 speech, which one was 19 that? 20 A. That was a speech in Laredo, Texas 21 about two years ago on border security.</p>	<p>1 Q. Do you recognize that document? 2 A. I sure do. 3 Q. Tell me what it is. 4 A. This is an invoice for payment for 5 services rendered from 25 July to 13 September, 6 2013. 7 Q. And who did you send that invoice to? 8 A. I hand delivered this invoice to -- 9 did I give it to you, Tal? It was at our 10 meeting. I gave it to -- 11 Q. You gave it to one of the Plaintiffs' 12 counsel? 13 A. One of the Plaintiffs' counsel, yeah. 14 Q. And has this invoice been paid? 15 A. I do not know. It's a direct deposit. 16 I've had one payment already made. I don't 17 believe this one has been made, but I haven't 18 checked my direct deposit in several days. 19 MR. YALOWITZ: And I'll just state for 20 the record that payment is not contingent on Mr. 21 Addicott's testimony. If it hasn't been paid,</p>

<p style="text-align: right;">Page 22</p> <p>1 it's a processing issue, not a substance issue. 2 Q. Other than 242, have you sent other 3 invoices -- 4 A. Yes. 5 Q. -- in this matter? 6 A. There was a previous invoice that I 7 believe I sent by e-mail to -- who did I send it 8 to? Again, I'm pretty bad with the money. 9 Probably Nitsana. I probably sent it to Nitsana. 10 And that was for \$500, and that was my fee 11 associated with my first white paper. 12 Q. And by your first white paper, you're 13 referring to the document we've marked as 238? 14 A. Yes. 15 Q. Do you have a copy of that invoice? 16 A. I do not have it with me. 17 Q. But you believe you sent it to Nitsana 18 Darshan-Leitner? 19 A. I believe so. 20 Q. By e-mail or mail, do you recall? 21 A. It would have to be e-mail.</p>	<p style="text-align: right;">Page 24</p> <p>1 time that you spent reviewing 238? 2 A. No, I didn't, but it was hours. It 3 was a lot of time. 4 Q. Who were the research assistants that 5 pulled the source materials for you? 6 A. I've got ten research assistants, and 7 I did 20 years in the military so I run it as a 8 military organization. I give the task to my 9 senior research fellow, and they send that task 10 down to other law -- these are all law students, 11 so I don't know exactly who pulled these. My 12 senior research fellow is Evan Anders. 13 Q. Do you recall any conversations with 14 Mr. Anders about difficulty in locating any of 15 the source materials? 16 A. Just the first one. 17 Q. And did you have any conversations 18 with any of the law students that Mr. Anders 19 delegated this work to about the source 20 materials? 21 A. We have a \$700,000 facility at the</p>
<p style="text-align: right;">Page 23</p> <p>1 Q. And that invoice covered all of your 2 work on Defendants' 238, right? 3 A. It did, but I didn't charge by the 4 hour for the white paper. 5 Q. Why not? 6 A. Our Center for Terrorism Law is a 7 nonprofit center, and when I was asked to look at 8 the paper, I had my research students pull all 9 the footnotes, so I didn't charge for that time 10 because I didn't personally pull them myself. I 11 did review them all, read them all, but I didn't 12 do the actual labor, and so I didn't charge for 13 that. 14 I simply charged for my time -- I 15 didn't really charge for my full time because I 16 spent many more hours reviewing the draft. I 17 don't run the Center as a profit organization, so 18 I'm not there to make money. So the first 19 instance, I just told her I'd charge a flat fee 20 to produce this paper. 21 Q. Did you record anywhere the amount of</p>	<p style="text-align: right;">Page 25</p> <p>1 school, and the research fellows come and go 2 quite often so there could have been some 3 conversations with some of them about it, but I 4 don't recall. 5 Q. As you sit here today, you don't 6 recall having any such conversations? 7 A. I may have; I just don't recall. 8 Q. The \$500 fee for this, for Defendants' 9 238, was that something you agreed upon with Ms. 10 Darshan-Leitner? 11 A. Yeah. When she first called, probably 12 about the same time she sent the e-mail with the 13 draft, and she asked if I could review this 14 draft, and I said yeah, I would be happy to 15 review it. That's what our Center does. We do a 16 lot of pro bono activity, you can imagine. So my 17 initial thought was that I would review the 18 draft, and that's what I did. 19 Q. Do you know someone named Avi Leitner? 20 A. Not personally, no. 21 Q. Do you know of him?</p>

<p style="text-align: right;">Page 26</p> <p>1 A. I've heard the name. I'm trying to 2 associate it.</p> <p>3 Q. Where do you think you heard it?</p> <p>4 A. Probably in the context of this issue 5 somewhere.</p> <p>6 Q. By "this issue," what do you mean?</p> <p>7 A. The draft.</p> <p>8 Q. Were you ever told that Avi Leitner 9 was the person who wrote the draft that you 10 received?</p> <p>11 A. No. I was never told who drafted it. 12 I have no idea who drafted it.</p> <p>13 Q. Looking at 242, which is your invoice, 14 I take it that is your signature at the bottom?</p> <p>15 A. Yes.</p> <p>16 Q. And is there a stamp that's been 17 affixed to it next to your signature?</p> <p>18 A. Yes.</p> <p>19 Q. And who affixed that stamp?</p> <p>20 A. I did.</p> <p>21 Q. That is a stamp, I take it, you had</p>	<p style="text-align: right;">Page 28</p> <p>1 A. I'd have to look at the draft again, 2 but I think I'm recalling that I either reworded 3 it or added that sentence. Easy to solve if we 4 look at the draft.</p> <p>5 Q. So let's take a look at 241.</p> <p>6 A. Yeah, it looks like I -- again, 7 obviously it would fit somewhere before the 8 Arafat launch, but, I mean, I recall that 9 sentence because, you know, I'm looking at both 10 sides of the issue from a scholarly perspective. 11 There's arguments on both sides about what 12 sparked, you know, the uprising, so that is one 13 sentence that sticks out in my mind.</p> <p>14 Q. Any other sentences that you recall 15 adding?</p> <p>16 A. That would be a substantive issue 17 because I didn't agree with the draft, you know, 18 putting the issue on one side. I felt, from my 19 scholarship, that there's two sides to it. There 20 were other changes. I just don't recall what 21 they were.</p>
<p style="text-align: right;">Page 27</p> <p>1 created for the Center?</p> <p>2 A. Yes, one of our stamps.</p> <p>3 Q. I think you said before that as you 4 sit here today, you can't tell us exactly which 5 portions of this document, and by "this", I mean 6 Exhibit 238, you edited and what was sent to you, 7 correct?</p> <p>8 A. I know one portion I did edit.</p> <p>9 Q. Okay. Which portion is that?</p> <p>10 A. That would be -- I've got my copy; now 11 I'm trying to identify the page on your copy so 12 we can be on the same copy. Give me a second 13 here.</p> <p>14 On Page 13, four lines down from the 15 top, I inserted that sentence where it says, 16 "Nevertheless, even if one accepts the view that 17 the 'spark' was not orchestrated, it is clear 18 that Arafat utilized the incident as an excuse to 19 orchestrate his planned al-Aqsa Intifada."</p> <p>20 Q. So that sentence was not in the draft 21 that was sent to you on March 21st?</p>	<p style="text-align: right;">Page 29</p> <p>1 Q. So your view was that the initial 2 draft was too one-sided?</p> <p>3 A. Well, that particular paragraph.</p> <p>4 Q. And so you added that sentence to even 5 it out?</p> <p>6 A. I recall adding that sentence. I 7 obviously made other changes to the structure of 8 various sentences and grammar and things like 9 that. That's just the one that sticks out in my 10 mind.</p> <p>11 Q. Well, let's turn to the substance of 12 the report, and maybe we can identify other 13 areas.</p> <p>14 On Page 11 there is a paragraph with 15 the header "Opinion," correct?</p> <p>16 A. Yes.</p> <p>17 Q. The document that you are looking at, 18 is that a document you brought with you?</p> <p>19 A. Yes, this is a copy of the one that I 20 submitted. It appears to be the same one that 21 you have shown me. I've got this one obviously</p>

<p style="text-align: right;">Page 30</p> <p>1 marked up.</p> <p>2 Q. And what are the markings?</p> <p>3 A. Highlighters.</p> <p>4 Q. And what do the highlighters signify?</p> <p>5 A. I don't understand your question,</p> <p>6 "What do they signify?"</p> <p>7 Q. Why did you mark it?</p> <p>8 A. Because we're doing a deposition</p> <p>9 today.</p> <p>10 Q. Did you mark it in preparation for the</p> <p>11 deposition?</p> <p>12 A. Oh, yeah.</p> <p>13 Q. The Opinions section that we're</p> <p>14 looking at starting on Page 11, the last</p> <p>15 paragraph, starting with "I will demonstrate</p> <p>16 herein" --</p> <p>17 A. Uh-huh.</p> <p>18 Q. -- this is the paragraph that</p> <p>19 essentially summarizes the opinions offered in</p> <p>20 this report, correct?</p> <p>21 A. That is correct.</p>	<p style="text-align: right;">Page 32</p> <p>1 The third paragraph talks about the</p> <p>2 fact that this white paper will demonstrate, in</p> <p>3 the main, that the Fatah faction and the</p> <p>4 Palestinian Authority were essentially --</p> <p>5 effectively, rather, indistinguishable from one</p> <p>6 another. They're both led by Yasser Arafat. In</p> <p>7 fact, Arafat founded the Fatah party, as we know,</p> <p>8 and he's the president of the PLO. And there in</p> <p>9 the relevant time period that we're looking at,</p> <p>10 he's responsible. He's culpable, "For the terror</p> <p>11 campaign known as the al-Aqsa Intifada, or Second</p> <p>12 Intifada, that claimed both Israeli and American</p> <p>13 lives, among others, during the period relevant</p> <p>14 to the case." And, "In addition to the hundreds</p> <p>15 of Israelis killed during this campaign, scores</p> <p>16 of innocent Americans lost their lives in this</p> <p>17 conflict. The PA," which stands, of course, for</p> <p>18 the Palestinian Authority, "was fully aware of</p> <p>19 the fact that, in its campaign of violence</p> <p>20 against Israelis, Americans were at risk of</p> <p>21 falling victim to these attacks. I will identify</p>
<p style="text-align: right;">Page 31</p> <p>1 Q. So just so we're on the same page, I</p> <p>2 want to make sure we agree on the opinions that</p> <p>3 you are adopting by signing this report.</p> <p>4 The first is that, "The Fatah faction</p> <p>5 and the Palestinian Authority were effectively</p> <p>6 indistinguishable from one another," during the</p> <p>7 Second Intifada.</p> <p>8 MR. YALOWITZ: Object to the form.</p> <p>9 A. Well, that's -- yeah, that's not --</p> <p>10 that's part of the context of that sentence, but</p> <p>11 it's not the full sentence.</p> <p>12 Q. Well, why don't you tell me the</p> <p>13 opinions that you are setting forth in this</p> <p>14 report?</p> <p>15 A. You want me to read them to you?</p> <p>16 Q. Sure.</p> <p>17 A. I can read the document if you want.</p> <p>18 Well, the first paragraph, of course, sets out my</p> <p>19 qualifications, and then the second short</p> <p>20 paragraph indicates that I've examined the</p> <p>21 complaint, which I did thoroughly.</p>	<p style="text-align: right;">Page 33</p> <p>1 specific requests by the United States to the PA</p> <p>2 to stop the violence because American citizens</p> <p>3 were being killed. I further note that the</p> <p>4 American casualties continued to mount during the</p> <p>5 2000-2004 time frame, even after the PA became</p> <p>6 aware of the danger to American citizens. The</p> <p>7 intifada continued unabated, and fueled by the</p> <p>8 Palestinian leadership."</p> <p>9 Q. So your opinion is focused on the</p> <p>10 actions of the Palestinian Authority and Fatah</p> <p>11 during the Second Intifada, correct?</p> <p>12 A. Yes, we're looking at that specific</p> <p>13 time frame, correct.</p> <p>14 Q. And that time frame is 2000 to 2004,</p> <p>15 right?</p> <p>16 A. Right, September 2000.</p> <p>17 Q. Turn, if you will, to Page 11 of 238.</p> <p>18 A. Going back?</p> <p>19 Q. Yes. The first sentence under,</p> <p>20 "Opinion," reads, "My opinion as set forth below</p> <p>21 is based upon my academic studies, research,</p>

Page 34	Page 36
<p>1 lecturing and publishing over the course of over 2 thirteen years as a professor of law and Director 3 of the Center for Terrorism Law, St. Mary's 4 University School of Law; and lecturer at 5 numerous academic and professional institutions 6 around the world, to include the FBI Academy and 7 other international law enforcement agencies."</p> <p>8 What academic studies have you 9 conducted concerning the role of Fatah and the 10 Palestinian Authority during the Second Intifada?</p> <p>11 A. I'm not sure I understand the 12 question. When you say "academic studies," I 13 mean obviously I have been involved with 14 terrorist incidents and organizations for many, 15 many years, so I've done lectures, I've done 16 seminars, I've produced papers, included the 17 terrorism and the incidents of terrorism as part 18 of the framework for studying terrorism. So I 19 guess that's --</p> <p>20 Q. And of what you just mentioned, which 21 specifically dealt with the Palestinian Authority</p>	<p>1 Law textbook?</p> <p>2 A. The Seventh Edition, yes.</p> <p>3 Q. I'm going to show you excerpts from 4 the Second Edition, and then I'll ask you about 5 the Seventh.</p> <p>6 A. Second Edition, wow.</p> <p>7 Q. Yes.</p> <p>8 A. That's a long time ago.</p> <p>9 MR. WISE: Can we mark that as 243.</p> <p>10 (Defendants' Deposition Exhibit Number 11 243 was marked for identification.)</p> <p>12 BY MR. WISE:</p> <p>13 Q. So do you recognize that, first of 14 all, as the cover of your book?</p> <p>15 A. Yes. As the Second Edition cover, 16 yes.</p> <p>17 Q. And when was the Second Edition 18 published?</p> <p>19 A. I don't recall. I'm in the Seventh 20 Edition now, so if you work backwards in time, I 21 do a new edition about every two to three years.</p>
<p>1 and Fatah during the Second Intifada?</p> <p>2 A. Well, many of them do because they're 3 a classic framework when you look at terrorism 4 and what causes terrorism and how it's motivated 5 and whether or not certain acts of terrorism fall 6 under different categories, for example, 7 state-sponsored or state-supported or substate 8 terrorist groups. What's occurred for a long 9 time with the PLO over the years has been 10 associated with terrorism, so it's wide-ranging 11 discussion that touches almost every field of 12 terrorism.</p> <p>13 Q. Which academic studies that you've 14 just referenced related to the PA and Fatah is my 15 question. Can you identify a single one?</p> <p>16 A. Oh, sure. I'd have to look at my bio. 17 I mean, if you look at my textbook, I've got 18 language in the textbook that identify that 19 category and brand of terrorism. I can't cite 20 the page without having the book in front of me.</p> <p>21 Q. Are you referring to your Terrorism</p>	<p>1 For 2013 -- I'm just trying to imagine. I don't 2 know. I can't recall the date. But, again, I do 3 a new edition about once every two to three 4 years. I'm in the Seventh Edition now, which is 5 almost 600 pages. I think this edition was -- I 6 don't know. It wasn't very big. So I would say 7 maybe 2005, 2004.</p> <p>8 Q. We'll turn back to this. I'm going to 9 get the book so that I don't have to have you 10 guess.</p> <p>11 Let me ask you this, though: You 12 mentioned the PLO before. The PLO is not 13 mentioned in your opinion as you've just read it, 14 correct?</p> <p>15 A. In my opinion?</p> <p>16 Q. Right.</p> <p>17 A. The PLO itself? No, I did not put 18 that in the opinion.</p> <p>19 Q. You mentioned --</p> <p>20 A. I did put it in my second opinion, my 21 rebuttal to the Robinson report, though.</p>

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

Page 38	Page 40
<p>1 Q. We'll turn to that a little bit later.</p> <p>2 You mentioned before Rachel Weiser, W-E-I-S-E-R,</p> <p>3 correct?</p> <p>4 A. Yes.</p> <p>5 Q. And who is she?</p> <p>6 A. She's an attorney. My impression is</p> <p>7 she lives in Israel. I've never met her.</p> <p>8 Q. Does she represent the plaintiffs in</p> <p>9 this case as far as you understand?</p> <p>10 A. As far as I understand.</p> <p>11 Q. And in the course of preparing for</p> <p>12 your deposition in this case, you've had</p> <p>13 conversations with Rachel about these academic</p> <p>14 studies that you've referred to in this report,</p> <p>15 correct?</p> <p>16 A. Not in great detail.</p> <p>17 Q. Has she asked you specifically which</p> <p>18 of these writings relates to the subject of your</p> <p>19 report?</p> <p>20 MR. YALOWITZ: Objection. Instruction</p> <p>21 not to answer.</p>	<p>1 from first hand observations which were then</p> <p>2 coupled with his knowledge of history and law.</p> <p>3 Indeed, much of the international terrorism" --</p> <p>4 strike that -- "much of international terrorism</p> <p>5 emanates from radical Islamic extremism.</p> <p>6 Professor Addicott has not specifically written</p> <p>7 on the historical development of the PLO or any</p> <p>8 particular terror organization but he has often</p> <p>9 mentioned these groups in associated talks, etc.</p> <p>10 (hence the 'appear throughout' language) and</p> <p>11 themes relating to his opinions may," in italics,</p> <p>12 "be contained in those media events, speeches and</p> <p>13 publishings. However, he cannot recall anything</p> <p>14 in particular with the exception of the following</p> <p>15 Law Review article that he believes may be of</p> <p>16 some interest: American Punitive Damages vs.</p> <p>17 Compensatory Damages in Promoting Enforcement in</p> <p>18 Democratic Nations of Civil Judgments to Deter</p> <p>19 State-Sponsors of Terrorism, 5 University of</p> <p>20 Massachusetts Roundtable Symposium Law Journal</p> <p>21 192 (Winter 1010)." Having looked at Ms.</p>
Page 39	Page 41
<p>1 MR. WISE: Let me mark this as 244.</p> <p>2 (Defendants' Deposition Exhibit Number</p> <p>3 244 was marked for identification.)</p> <p>4 BY MR. WISE:</p> <p>5 Q. Professor, I'm going to refer you</p> <p>6 specifically to Sub Number 2 on paragraph -- on</p> <p>7 Page 1, beginning with "Obviously, the majority."</p> <p>8 A. Okay.</p> <p>9 Q. Do you see that paragraph?</p> <p>10 A. I see it.</p> <p>11 Q. This document is an e-mail from Ms.</p> <p>12 Weiser to Brian Hill. Do you see that?</p> <p>13 A. I see it.</p> <p>14 Q. And in that e-mail, Ms. Weiser writes,</p> <p>15 "Obviously, the majority of the over 600 talks</p> <p>16 and 3,000 media events would not be on point, but</p> <p>17 he provided them all in the interest of full</p> <p>18 disclosure. Having worked with various law</p> <p>19 enforcement and military organizations across the</p> <p>20 globe (to include the IDF and Egyptian military)</p> <p>21 Professor Addicott has gleaned much information</p>	<p>1 Weiser's representation, is that accurate as to</p> <p>2 your recollection of these previous writings?</p> <p>3 A. Well, not entirely, no.</p> <p>4 Q. What is inaccurate about it?</p> <p>5 A. Well, the sentence about in the middle</p> <p>6 of the paragraph, where she says, "Professor</p> <p>7 Addicott has not specifically written on the</p> <p>8 historical development of the PLO or any</p> <p>9 particular terror organization," I would say that</p> <p>10 that's a generalized statement.</p> <p>11 Q. That is a generalized statement?</p> <p>12 A. Yeah. I mean, I have written on other</p> <p>13 terrorist organizations. It's true I'm not a</p> <p>14 historian of the development of the PLO, haven't</p> <p>15 written on that, but I have written on other</p> <p>16 terrorist organizations, how they developed.</p> <p>17 Q. Have you written on the history of the</p> <p>18 Palestinian Authority?</p> <p>19 A. I'm not a historian in that degree,</p> <p>20 no, I haven't written on the history of the</p> <p>21 Palestinian -- PLO.</p>

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

Page 42	Page 44
<p>1 Q. Have you written on the historical 2 development -- strike that.</p> <p>3 Have you written on the Palestinian 4 Authority at all?</p> <p>5 A. Well, I'd have to look at the over 6 600, you know, books, articles, book reviews I've 7 written, but I know I have mentioned the 8 Palestinian Authority and Yasser Arafat and -- 9 you know, as an example that I use when I speak 10 on terrorism issues, so I -- I haven't written 11 any in-depth -- so the part where she talks that 12 I haven't done any historical development of the 13 PLO, that's true.</p> <p>14 Q. Have you written on Fatah?</p> <p>15 A. Not specifically, no. In other words, 16 when I've written articles on targeted killing, 17 obviously you're talking about the Palestinian, 18 you know, terrorists, and whether they come from 19 Hamas, Fatah, or, you know, what brand of 20 terrorism that they represent. I've certainly 21 written about terrorism in that area on many</p>	<p>1 Q. Can you identify for me, as you sit 2 here today, a single piece where you have 3 analyzed the actions of either Fatah or the 4 Palestinian Authority?</p> <p>5 A. You mean the historical development of 6 those groups?</p> <p>7 Q. No. I mean the actions --</p> <p>8 A. Well, yeah, of course. When I'm 9 writing about the issue of targeted killing, for 10 example, you know, those individuals are coming 11 from an environment that is associated with the 12 PLO, with the Fatah, with various organizations.</p> <p>13 Q. So let's turn earlier in your report, 14 238.</p> <p>15 A. Which page?</p> <p>16 Q. Well, let's start with your list of 17 books that appears on Page 3.</p> <p>18 A. Page 3?</p> <p>19 Q. Yes.</p> <p>20 A. Okay.</p> <p>21 Q. And on Pages 3 and 4, you list nine</p>
<p>1 occasions.</p> <p>2 Q. And when you're writing about targeted 3 killings, you're writing about the legality of 4 Israel conducting targeted killings against 5 Palestinians, correct?</p> <p>6 A. Not against Palestinians. Against 7 Palestinian terrorists, yes, terrorists that 8 happen to be Palestinians. I mean, I'm not -- to 9 me, it's irrelevant if they're Palestinians or 10 not Palestinians. I'm looking at whether their 11 acts are legal or illegal, yeah.</p> <p>12 Q. And is it your testimony that your 13 writing in that regard focuses on anything other 14 than the legality of the Israeli action?</p> <p>15 A. Well, I mean I'm looking at the 16 legality of Israeli action vis-a-vis the action 17 of the other side. You know, you've got to 18 consider what the other side is doing. That fits 19 into the equation. So it's not a one sided 20 discussion, no. I look at both sides of the 21 issue.</p>	<p>1 books, correct?</p> <p>2 A. At the time, yes, that's correct.</p> <p>3 Q. Have there been more since March of 4 2013?</p> <p>5 A. Yes.</p> <p>6 Q. And what else? What are the new ones 7 that are not on this list?</p> <p>8 A. The new one would be the Seventh 9 Edition, which is 2014, of the Terrorism Law: 10 Materials, Cases and Comments.</p> <p>11 Q. Okay. So between the nine books 12 listed on Pages 3 and 4 and the new edition of 13 the Terrorism Law book, please identify for me 14 which of those books includes your writing on 15 Fatah and the Palestinian Authority.</p> <p>16 A. Well, again, I'm looking at the acts 17 of the -- I haven't done a historical development 18 of either organization. I don't have that in 19 there. That's not my function.</p> <p>20 Q. I'm not asking for historical 21 development right now. Let's tie this to your</p>

Page 46	Page 48
<p>1 report. Tell me which of these books includes 2 your writing about the role of Fatah or the 3 Palestinian Authority during the Second Intifada.</p> <p>4 A. Well, again, the Seventh Edition would 5 mention those types of activities, but they're 6 not a detailed analysis of, you know, exactly 7 when this action occurred or how it occurred. 8 That would be in my white paper, where I went 9 into it. I've not analyzed it before this white 10 paper, to that degree.</p> <p>11 Q. And by "this white paper," you're 12 referring to 238?</p> <p>13 A. And the rebuttal report.</p> <p>14 Q. So those two writings are the only 15 places where you have done an analysis of PA and 16 Fatah during the Second Intifada, correct?</p> <p>17 A. In writing, yes.</p> <p>18 Q. I'm going to hand you, now that we 19 have it, the book from which the photocopies that 20 are Exhibit 243 comes.</p> <p>21 MR. WISE: Would you like to mark that</p>	<p>1 A. Well, approximately. If you notice in 2 the cover here, it says First Edition, 2003. 3 This is Second Edition, 2004.</p> <p>4 Q. Let's work off of this edition, and 5 then we'll go back to whether there have been 6 subsequent changes.</p> <p>7 This is the textbook that you 8 referenced before when you pointed to one of the 9 books in your report, correct?</p> <p>10 MR. YALOWITZ: Objection.</p> <p>11 A. I don't think so, no. That's an 12 edition that's been superseded. I think I 13 referred to the Sixth Edition.</p> <p>14 Q. The Sixth Edition, does it have 15 additional materials about the PA and Fatah that 16 are not in the Second Edition?</p> <p>17 A. I'd have to read the Second Edition 18 again and compare it with the -- that's been 19 years. I haven't looked at that since 2004.</p> <p>20 Q. As you think back to writing the 21 subsequent editions, do you recall researching</p>
Page 47	Page 49
<p>1 also?</p> <p>2 THE REPORTER: It's up to you.</p> <p>3 MR. WISE: Let's mark that as 243A. 4 (Defendants' Deposition Exhibit Number 5 243A was marked for identification.)</p> <p>6 BY MR. WISE:</p> <p>7 Q. And that's the Second Edition of your 8 book, correct?</p> <p>9 A. That's correct.</p> <p>10 Q. What year was it?</p> <p>11 A. 2004.</p> <p>12 Q. So you said this was published in what 13 year? I'm sorry.</p> <p>14 A. The book indicates 2004.</p> <p>15 Q. Is it fair to say that that edition of 16 the book was the edition printed closest in time 17 to the time period analyzed in your report?</p> <p>18 A. Well, no, because the First Edition 19 would be 2003.</p> <p>20 Q. I thought you said they came out every 21 three years.</p>	<p>1 and writing on the PA and Fatah for sections of 2 your book that are different from what's in the 3 Second Edition?</p> <p>4 A. I'd have to look at the Second Edition 5 and compare it. I don't know. It's been a long 6 time ago.</p> <p>7 Q. Taking a look at the index of your 8 book, do you see any mentions or citations to 9 Fatah?</p> <p>10 A. I'm looking at that right now. That 11 was my first thing before you asked the question. 12 This book is a shadow of the one I have now. 13 It's almost embarrassing to look at it.</p> <p>14 (Witness Reviews Book.)</p> <p>15 A. No, I don't see that. But, again, 16 this is a -- nope.</p> <p>17 Q. Do you see any references in the index 18 to Arafat?</p> <p>19 (Witness Reviews Book.)</p> <p>20 A. No, I do not.</p> <p>21 Q. Do you see any references to the PLO?</p>

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

	Page 50	Page 52
1	(Witness Reviews Book.)	1 information, Footnote 69, " correct?
2	A. No.	2 A. Yes, that's correct.
3	Q. And do you see references to the	3 Q. Okay. And if you look at Footnote 69
4	Palestinian Authority?	4 for this chapter, which is on Page 176, the
5	(Witness Reviews Book.)	5 footnote refers to a TIME Magazine article from
6	A. Yes, I do.	6 January 15th, 2001, right?
7	Q. There are two, correct?	7 A. Yes.
8	A. Yes, I see two pages that are listed	8 MR. WISE: We'll mark this, please.
9	there, listed in the index, on Page 455.	9 (Defendants' Deposition Exhibit Number
10	Q. And what pages cite to the Palestinian	10 245 was marked for identification.)
11	Authority?	11 BY MR. WISE:
12	A. It says Pages 10 and 169.	12 Q. Professor, looking at Exhibit 245, do
13	Q. Okay. Will you turn to Page 10?	13 you recognize that as the TIME article that you
14	A. Okay.	14 cited in your book?
15	Q. The citation to the Palestinian	15 A. I'd have to read it. It's been years,
16	Authority on Page 10 reads, first full paragraph,	16 years ago.
17	"In early 2000, United States and Israeli	17 Q. Let me call your attention first to
18	intelligence sources reported that Hamas, a	18 the date and title of the article.
19	militant Palestinian terrorist group that the	19 A. Okay, I'm looking at it.
20	Palestinian Authority denies responsibility for,	20 Q. And go ahead and take your time to
21	was experimenting with chemical weapons in their	21 read it.
	Page 51	Page 53
1	rocket attacks against Israeli targets," correct?	1 A. Oh, okay.
2	A. That's what it says.	2 (Witness Reviews Document.)
3	Q. Is there any other reference on that	3 A. Okay. I've read that article.
4	page to the Palestinian Authority?	4 Q. Based on the author, title, date and
5	A. I'll have to read the page.	5 publication, you would agree with me that this is
6	(Witness Reviews Book.)	6 the article cited in your book, correct?
7	A. I don't see anything else on that	7 A. Let's see. That would be the article
8	page.	8 on Page -- let's see, Footnote -- what footnote
9	Q. The second reference to the	9 was that again?
10	Palestinian Authority in your index refers to	10 Q. 69.
11	Page 168, correct?	11 A. 69. Okay. That is the article,
12	A. 169.	12 that's correct.
13	Q. 169, thank you. So will you turn to	13 Q. And having read it now, would you
14	Page 169, please?	14 agree with me that nothing in that article states
15	A. Okay, I have 169.	15 that the Palestinian Authority refuses to act on
16	Q. And I'll call your attention to the	16 information provided by Israel?
17	first full paragraph, nine lines down, that	17 A. I believe the footnote should have
18	reads, "The next step is to give the Palestinian	18 been 71. I know Michael Schmitt. And again,
19	Authority the list of suspects for arrest, which	19 that's why we have other editions to correct
20	proves futile due to the fact that the	20 errors when they occur. But it's not directly on
21	Palestinian Authority refuses to act on the	21 point, but it -- the fact that it's there should

Page 54	Page 56
<p>1 have been -- it should have been Footnote 71.</p> <p>2 Q. So you believe that Mr. Schmitt's 3 article supports the contention you've made in 4 that sentence on Page 169.</p> <p>5 A. Well, I believe so. Again, this was 6 written a long time ago and I'd have to look at 7 it. It appears to be a typo.</p> <p>8 Q. Do you have any present recollection 9 of editing that footnote in subsequent editions?</p> <p>10 A. Well, not this footnote. I've added a 11 lot of footnotes in subsequent editions.</p> <p>12 Q. But this footnote is the one I'm 13 concerned about.</p> <p>14 A. I can't recall.</p> <p>15 Q. Are you familiar with the concept of 16 peer review?</p> <p>17 A. Yeah.</p> <p>18 Q. What is peer review?</p> <p>19 A. Peer review usually is associated with 20 tenure. If someone is seeking tenure, you get 21 scholars in the field to review your work to</p>	<p>1 I've been asked to peer review lots of 2 stuff, so I assume my publisher did that, but 3 I -- good question.</p> <p>4 Q. When you've been asked to peer review 5 the work of others, I take it that you've then 6 had discussions with the authors of those pieces 7 about your findings, correct?</p> <p>8 A. Well, sometimes.</p> <p>9 Q. Have you ever been contacted by 10 another scholar who said that they were doing 11 peer review of any of your books?</p> <p>12 A. Well, my Law Review articles, yeah.</p> <p>13 Q. Okay. But let's start with the books, 14 and then we'll move to the Law Review articles.</p> <p>15 As it relates to the books, have you 16 ever been contacted by another scholar saying 17 that they were conducting peer review of your 18 books?</p> <p>19 A. I'm sure I have. I just can't recall.</p> <p>20 Q. So let's turn to your Law Review 21 articles. You said that you know those have been</p>
<p style="text-align: center;">Page 55</p> <p>1 render an opinion whether or not you are 2 advancing scholastically to the degree that you 3 should be granted tenure or put on a tenure 4 track. Generally that's what the term indicates.</p> <p>5 It also is used when you write Law 6 Review articles or other periodicals. A Law 7 Review will take your draft article, they'll send 8 it to other scholars to look at it, to make sure 9 that it is in the main that's appropriate.</p> <p>10 Q. Have any of the books that you've 11 listed in your report been peer reviewed?</p> <p>12 A. Well, all the Law Review articles 13 have. What I do with my books is generally I 14 will take the Law Review articles, and if you 15 notice my Law Review articles, a lot of them 16 track what's in the book. So while the book may 17 have not been peer reviewed -- and I don't know.</p> <p>18 I mean, the publisher, I'm sure, sends it out to 19 other scholars. That's not my responsibility to 20 peer review my own work. It's usually the 21 publisher will send it out to other scholars.</p>	<p style="text-align: center;">Page 57</p> <p>1 peer reviewed, correct?</p> <p>2 A. If you've ever written a Law Review 3 article for a journal, that's what journals do.</p> <p>4 They get a lot of Law Review articles that are 5 submitted to the journal, and -- like the 6 Kentucky Journal on National Security, I believe, 7 I wrote an article about interrogation. So 8 they'll send those -- before they publish them, 9 they obviously do a peer review and cite check 10 and they'll notify you whether or not they accept 11 your article or not, but I've not been involved 12 in that process. I was not on the Law Review 13 when I was in law school.</p> <p>14 Q. Have any of your Law Review articles 15 that you've written that have been subject to 16 peer review been about the PA or Fatah?</p> <p>17 A. I haven't written any articles 18 directly on the PA or the Fatah. I've written 19 articles on targeted killing, which obviously are 20 associated with the killings in the Palestinian 21 territories.</p>

Page 58	Page 60
<p>1 Q. Let me turn your attention back to the 2 index to the Second Edition of your book and to 3 the Michael Schmitt article, Law Review article, 4 excuse me, that you reference in Footnote 71, 5 which is on Page 176.</p> <p>6 A. You want me to go to Footnote 71?</p> <p>7 Q. Yeah.</p> <p>8 A. Okay. I'm there.</p> <p>9 Q. And if I understood correctly, what 10 you said was that Footnote 71, you believe, was 11 the source for the statement on Page 169?</p> <p>12 A. I think a better source would be to 13 look at the actual Law Review article that I 14 wrote, because obviously when you write a book, 15 you're not -- you don't put the hundreds and 16 hundreds of footnotes in the book. So if we 17 could get the Law Review that I wrote on targeted 18 killing, we'd probably be able to figure out 19 where the source came from.</p> <p>20 Again, I can't recall at this time 21 what Michael Schmitt's article indicated. That's</p>	<p>1 Quantico, Virginia," correct?</p> <p>2 A. Approximately, yes.</p> <p>3 Q. What do you lecture on there?</p> <p>4 A. Terrorism.</p> <p>5 Q. Broadly?</p> <p>6 A. Well, broadly and specifically.</p> <p>7 Q. Have you ever lectured to the FBI 8 Investigation Academy about the Palestinian 9 Authority or Fatah during the Second Intifada?</p> <p>10 A. When you say "about," what do you 11 mean? I mean, I don't go into historical 12 development of the organizations, no.</p> <p>13 Q. Have you ever discussed the actions of 14 the PA or Fatah during the Second Intifada in any 15 of your lectures to the FBI Academy?</p> <p>16 A. Well, I concentrate on the act of 17 terrorism and the links, I don't go into great 18 detail about the linkage because I'm looking at 19 the actual events. So I don't do detailed 20 analysis of the links between the Palestinian 21 terrorists and exactly what organization they</p>
<p style="text-align: center;">Page 59</p> <p>1 my assumption because it looks like it's close in 2 time, but it could be another cite. I don't 3 know.</p> <p>4 Q. You'd agree with me, at least, that 5 according to your book, the Schmitt article was 6 written in 1992?</p> <p>7 A. That's what it says, yes.</p> <p>8 Q. Which would make it impossible for 9 that to be the source of information on the 10 Palestinian Authority, correct?</p> <p>11 A. Well, I think that's correct.</p> <p>12 Q. Why?</p> <p>13 A. Well, the PA, of course, the Oslo 14 Accord's in 1993, so we've got a year -- the 15 dates wouldn't match. The dates wouldn't match.</p> <p>16 Q. Because the PA didn't exist in 1992?</p> <p>17 A. Right. They existed the next -- 1993, 18 I believe, is when they stood up.</p> <p>19 Q. Your report at Page 2 says that you, 20 "Lecture four times a year at the United States 21 Federal Bureau of Investigation (FBI) Academy in</p>	<p style="text-align: center;">Page 61</p> <p>1 come from, whether it's Hamas, Fatah, the Martyrs 2 Brigade, no, I don't instruct them on the party 3 membership or the membership of that particular 4 terrorist.</p> <p>5 Q. So the answer is no?</p> <p>6 A. No.</p> <p>7 Q. How long have you been lecturing at 8 the FBI Academy?</p> <p>9 A. I'd have to look at my list of 10 lectures. If you go through the over 600 11 speeches, you can probably go back in time and 12 see the first one. I would say maybe 2004, '5.</p> <p>13 Q. Did there come a time that you were 14 asked not to return for some period?</p> <p>15 A. I got a -- about a year and a half 16 ago -- well, the answer is yes.</p> <p>17 Q. Tell me the circumstances of that, 18 please.</p> <p>19 A. About a year and a half ago, I got a 20 call from the agent that organizes, had organized 21 a course that I was an integral part of on</p>

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

<p style="text-align: right;">Page 62</p> <p>1 terrorism, and he told me his course had been 2 suspended by higher headquarters. It had nothing 3 to do with me, but the course itself had been 4 suspended.</p> <p>5 Q. In the speeches that you listed in 6 your report, you've cited to a number of things 7 that are on YouTube, correct?</p> <p>8 A. My speeches?</p> <p>9 Q. Yes.</p> <p>10 A. Yeah, I've had speeches on YouTube.</p> <p>11 Q. And in at least some of those prior 12 speeches, you've talked about how you were asked 13 not to come back for some period, right?</p> <p>14 A. Because I was asked not to come -- 15 well, I wouldn't say not to come back. I was 16 told that the program had been suspended.</p> <p>17 Q. Because you had been critical of Janet 18 Napolitano?</p> <p>19 A. No, that's never mentioned.</p> <p>20 Q. Do you deny that you said that during 21 one of your speeches?</p>	<p style="text-align: right;">Page 64</p> <p>1 Q. Tell me now, as you sit here today, 2 what you recollect about any instance where in 3 the media you have opined about the PA or Fatah's 4 actions during the Second Intifada.</p> <p>5 A. I recall one interesting one because 6 those are the ones that stand out. When you've 7 done almost 4,000, it's hard to recall, but I do 8 recall one on Fox News, I think it was 2004, I 9 was debating a PA official high up the chain of 10 command -- I can't remember his name, but you can 11 probably pull it from Fox News -- about their use 12 of violence, their sponsorship of violence 13 against Israeli and American civilians. We were 14 in a debate. I recall that one.</p> <p>15 Q. How long was that?</p> <p>16 A. How long was the debate?</p> <p>17 Q. Yes.</p> <p>18 A. Well, there's two talking heads. I 19 don't know, five minutes. Usually when you do, 20 you know, a Fox News or MSNBC, it's between three 21 to five minutes.</p>
<p style="text-align: right;">Page 63</p> <p>1 A. I've been very critical of Janet 2 Napolitano over the years.</p> <p>3 Q. But are you denying that during one of 4 your speeches you said the reason that you were 5 not invited back was because you guess you had 6 been critical of Janet Napolitano?</p> <p>7 A. I can't recall. I know I've been 8 critical of her. I've been critical of President 9 Bush. I've been critical of President Obama. 10 I've been critical of a lot of people.</p> <p>11 Q. But as you sit here today, you don't 12 believe that that criticism had anything to do 13 with not being invited back to the FBI?</p> <p>14 A. I can't recall. I've done over 4,000 15 media appearances. I cannot recall. You'd have 16 to show it to me and I'd have to look at it.</p> <p>17 Q. In the 4,000 media appearances, how 18 many times have you opined about the role of the 19 PA or Fatah in the Second Intifada?</p> <p>20 A. I don't know. I have, but I can't 21 give you a number.</p>	<p style="text-align: right;">Page 65</p> <p>1 Q. Do you remember who the Fox News 2 moderator was?</p> <p>3 A. Oh, I can't remember.</p> <p>4 Q. Do you remember whether there was a 5 particular incident that had led to Fox News 6 doing this story?</p> <p>7 A. It was associated with the Israeli 8 push against Ramallah.</p> <p>9 Q. Any particular Israeli push against 10 Ramallah?</p> <p>11 A. Well, I guess the tanks were rolling 12 into Ramallah. They were engaged in combat with 13 elements of the PA and the PLO, I suppose.</p> <p>14 Q. Are you referring to what you've 15 spoken about in your report as Operation 16 Defensive Shield?</p> <p>17 A. It might have been. Again, it's 18 been -- I've done many talks about it. You asked 19 me which one stands out. That one stands out.</p> <p>20 Q. And that appearance, I take it, would 21 be on your list of prior media appearances?</p>

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

Page 66	Page 68
<p>1 A. Should be. Although, quite frankly, 2 not all the media appearances I've done are on 3 the list, just the volume of it and getting the 4 secretary to record them, some of them. I would 5 say that probably there's about 3 to 500 that 6 probably aren't even on that list.</p> <p>7 Q. Do you have any reason to believe that 8 appearance would not be on that list?</p> <p>9 A. No. I haven't looked at it, though, 10 for a long time.</p> <p>11 Q. When you provided that list to counsel 12 in relation to this litigation, did you check the 13 list to see whether it included relevant 14 appearances?</p> <p>15 A. No. No, I just provided the entire 16 list that I had.</p> <p>17 MR. YALOWITZ: Just let him finish his 18 questions.</p> <p>19 MR. WISE: Professor, let me know if 20 you want to take a break. We've been going for 21 an hour and 20 minutes.</p>	<p>1 A. No, they were about Hassan primarily. 2 Q. So looking at 246, that is your list 3 of public speeches up through March 2nd of 2013, 4 correct?</p> <p>5 A. That's correct.</p> <p>6 Q. And looking at 247, that is your list 7 of media appearances up through March 23rd of 8 2013?</p> <p>9 A. Yes, that's correct.</p> <p>10 Q. Other than what you've already told me 11 about, are there any public -- let's start with 12 the public speeches. Are there any public 13 speeches that you can recall where you spoke 14 about specifically the Palestinian authority or 15 Fatah and the Second Intifada?</p> <p>16 A. Well, many times. You know, I've 17 spoken about those organizations and their 18 participation in terrorist attacks in the context 19 of a lot of speeches, but I haven't had a speech 20 that was entitled, as you suggest, the role of 21 the PLO in the Second Intifada, no.</p>
Page 67	Page 69
<p>1 MR. YALOWITZ: I wouldn't mind a 2 break.</p> <p>3 MR. WISE: Can we take five minutes?</p> <p>4 MR. YALOWITZ: I don't need it right 5 this second, but.</p> <p>6 MR. WISE: That's fine. Let's take 7 five.</p> <p>8 (Brief Recess.)</p> <p>9 MR. WISE: Can I have these two marked 10 as 246 and 247.</p> <p>11 (Defendants' Deposition Exhibit 12 Numbers 246 and 247 were marked for 13 identification.)</p> <p>14 THE WITNESS: I did a hundred month 15 before -- a hundred and six, so this is supposed 16 to be a lot thicker.</p> <p>17 BY MR. WISE:</p> <p>18 Q. A hundred and six media appearances?</p> <p>19 A. Media appearances, yeah.</p> <p>20 Q. Did any of those relate to the role of 21 the PA or Fatah in the Second Intifada?</p>	<p>1 Q. Aside from the title of the speech, 2 I'm asking whether any of your public speeches, 3 you've spoke about the issue of the PA or Fatah 4 in the Second Intifada?</p> <p>5 A. I have talked about that in a variety 6 of speeches over the years.</p> <p>7 Q. And looking at your list of public 8 speeches, can you identify for me the speeches 9 where you spoke about the PA or Fatah and their 10 role during the Second Intifada?</p> <p>11 A. Well, every speech you see at the FBI 12 Academy, I would mention -- that would be part of 13 the discussion, and so we'd have to look through 14 the list to see how many speeches are associated 15 with that.</p> <p>16 When you see speeches, for example, on 17 the 21st of August, where it says Radical Islam 18 and the War on Terror, I would include that as 19 part of that broader discussion.</p> <p>20 Q. What page are you talking about? I'm 21 sorry.</p>

<p style="text-align: right;">Page 70</p> <p>1 A. That would be Page 3, Number 36.</p> <p>2 Q. Radical Islam and the War on Terror?</p> <p>3 A. Yeah. I just pulled that out at</p> <p>4 random.</p> <p>5 Q. Okay. Do you consider the Palestinian</p> <p>6 Authority to be part of Radical Islam, as you</p> <p>7 define it?</p> <p>8 A. Yes.</p> <p>9 Q. Why is that?</p> <p>10 A. Because of their track record and how</p> <p>11 they fit into the framework.</p> <p>12 My legal expertise is really</p> <p>13 associated with the discipline of the legal</p> <p>14 aspects of terrorism, so what I do is I look at</p> <p>15 the concept -- I have a framework, I guess is a</p> <p>16 better way to put it, a legal framework, so if I</p> <p>17 can look at a particular organization, government</p> <p>18 or state, look at their behavior, what they do, I</p> <p>19 plug that into a legal framework and then I come</p> <p>20 up with an analysis and a conclusion.</p> <p>21 Q. So tell me how, in your analysis, the</p>	<p style="text-align: right;">Page 72</p> <p>1 that in the Second Intifada, where they wrapped</p> <p>2 themselves in religious themes, martyrdom, Jihad,</p> <p>3 and so that fits into that process.</p> <p>4 Q. Would you similarly consider Fatah to</p> <p>5 be part of radical Islam?</p> <p>6 A. Yes, they have used radical Islamic</p> <p>7 extremism as a mechanism to motivate, to insight</p> <p>8 and to conduct terror attacks.</p> <p>9 Q. Do you draw any differentiation</p> <p>10 between the PA and Hamas?</p> <p>11 A. Well, they're two different entities.</p> <p>12 Q. And what are the differences as you</p> <p>13 see them?</p> <p>14 A. Hamas is more likely to use the</p> <p>15 symbols of "radical Islam" to motivate violence.</p> <p>16 Q. Have you read any scholarly work that</p> <p>17 supports your definition of the Palestinian</p> <p>18 Authority as part of radical Islam? Or is that</p> <p>19 simply your conclusion?</p> <p>20 A. I've read lots of scholarly works on</p> <p>21 that topic.</p>
<p style="text-align: right;">Page 71</p> <p>1 Palestinian Authority is part of radical Islam.</p> <p>2 A. Well, it depends on how you define</p> <p>3 radical Islam. I define it from the perspective</p> <p>4 that they use terrorism and have used terrorism</p> <p>5 as a tactic to achieve political or other goals.</p> <p>6 Terrorism is a tactic.</p> <p>7 Q. Islam is a religion, correct?</p> <p>8 A. Islam is a religion.</p> <p>9 Q. And it's your view, though, that the</p> <p>10 Palestinian Authority is part of radical Islam?</p> <p>11 A. Could you ask that question again?</p> <p>12 Q. Tell me how, in your analysis, was the</p> <p>13 initial question, tell me how, in your analysis,</p> <p>14 the Palestinian Authority is part of radical</p> <p>15 Islam.</p> <p>16 A. It's part of the motivation that you</p> <p>17 will see or the ideology that motivates</p> <p>18 terrorism, acts of terrorism. So we've seen --</p> <p>19 when you plug in the analysis, you'll see that</p> <p>20 states will use, or misuse, religion as a</p> <p>21 justification for terrorist acts, and we've seen</p>	<p style="text-align: right;">Page 73</p> <p>1 Q. That cite to the Palestinian Authority</p> <p>2 as part of radical Islam?</p> <p>3 A. Well, yeah.</p> <p>4 Q. Can you name for me what those are?</p> <p>5 A. Well, not off the top of my head. I</p> <p>6 can write a research paper on it. I mean, it</p> <p>7 would take me some time to research the issue,</p> <p>8 but it's pretty much common knowledge in the</p> <p>9 field that they have used co-op'd religious</p> <p>10 symbols, signs, motivations to inspire, direct,</p> <p>11 solicit people to engage in terrorism. As I said</p> <p>12 in my white paper, I've got statements in their</p> <p>13 own words by these people.</p> <p>14 Q. What's your basis for saying it's</p> <p>15 common knowledge in the field that the</p> <p>16 Palestinian Authority is part of radical Islam?</p> <p>17 A. Well, my basis comes really from a</p> <p>18 wide range of sources. I think one, their own</p> <p>19 words, as I indicated in my white paper. You can</p> <p>20 read it, and you don't have to read the original</p> <p>21 languages to know exactly what they are doing.</p>

Page 74	Page 76
<p>1 Q. But you can't cite to me a single 2 scholarly source where another academic has said 3 the Palestinian Authority is part of radical 4 Islam, right?</p> <p>5 A. I could, but I can't do it right at 6 this second.</p> <p>7 Q. What would you need to do to be able 8 to do it right at this second?</p> <p>9 A. Well, it wouldn't be at this second. 10 I'd have to go back and research the issue and 11 compile them. You've got a lot of literature 12 that talks about the connection of the PA. 13 You've got -- as I've got in my white paper, 14 we've got seized documents, a lot that the 15 Israelis seized that show a connection between 16 those two links. You've got congressional 17 resolutions that would make certain findings of 18 fact that I've put out in my white paper. You've 19 got media reports that cover the topic by a 20 variety of sources.</p> <p>21 Q. So you're referring to the sources</p>	<p>1 Q. Professor Addicott, are you saying 2 that there are bases for your opinion that you 3 have omitted from your report or your rebuttal 4 report that support your conclusion?</p> <p>5 MR. YALOWITZ: Object to the form.</p> <p>6 Objection.</p> <p>7 A. Well, I would say that, you know, as a 8 scholar, I look at a lot of different sources 9 and, again, I plug that information, whether it 10 comes from -- I've just got a selected, you know, 11 group of sources in these reports. If I had the 12 time, I could produce a greater volume of 13 material with obviously many, many more sources, 14 but I was not asked to put every source that is 15 out there in this report. That would encompass a 16 lot of time.</p> <p>17 So I'm satisfied that the sources that 18 I have developed are enough to convince the 19 reasonable person that these facts are correct 20 and my conclusions are correct.</p> <p>21 Q. Let's turn to your initial report.</p>
Page 75	Page 77
<p>1 that are cited either in this initial report or 2 in your rebuttal report, correct?</p> <p>3 A. Well, some of the sources. There's 4 many, many more. If you're going to research 5 that particular issue, then I imagine you could 6 write hundreds of pages on the topic.</p> <p>7 Q. Are there other sources of scholarship 8 or evidence that you are aware of that you 9 omitted from either this report or your rebuttal 10 report?</p> <p>11 A. Am I aware of other sources that I 12 omitted?</p> <p>13 Q. That you omitted?</p> <p>14 A. There are hundreds of other sources 15 that I've not put in the report.</p> <p>16 Q. You've personally reviewed these 17 sources?</p> <p>18 A. It's pretty much common knowledge.</p> <p>19 Q. You personally reviewed these sources?</p> <p>20 A. Well, I haven't read every word in 21 every source that's out there, no. No one has.</p>	<p>1 First of all, you did not compile the sources for 2 this initial report, right?</p> <p>3 A. For the initial report, I didn't pen 4 the initial report, but everything in the initial 5 report I have adopted, and it reflects my 6 professional opinion exactly.</p> <p>7 Q. But you didn't add a single footnote 8 to the text that was sent to you that makes up 9 your initial report, correct?</p> <p>10 A. I can't say that. I don't recall. I 11 would say if I did, it wasn't very many.</p> <p>12 Q. You said you reviewed all of the 13 sources that are cited in this report?</p> <p>14 A. To my knowledge, except for that one. 15 But, again, it's been awhile, since March. But I 16 did produce all the ones that I could find. The 17 one stands out in my mind, the YouTube video, 18 but -- so I'll just say yes.</p> <p>19 Q. And did you review them all before you 20 signed it?</p> <p>21 A. Yes.</p>

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

Page 78	Page 80
<p>1 Q. Just to wrap up our last line of 2 questions: Are there any sources that you can 3 think of, as you sit here today, that support 4 your conclusion that the PA and Fatah were 5 involved in the Second Intifada, but which you 6 excluded from either your report or your rebuttal 7 report?</p> <p>8 A. That I excluded from the report? No, I can't think of any sources that I -- well, I can't think of it this time, but if I had more time to write a more detailed report, I'm confident that I could increase those sources 10-fold.</p> <p>14 Q. Professor, was there a time limit put 15 on your drafting of your rebuttal report?</p> <p>16 A. I think there was. I think I was told that the report had to be in by a fixed date. I can't remember what the date was.</p> <p>19 Q. And who told you that?</p> <p>20 A. I don't recall.</p> <p>21 Q. Was it in writing, or was it oral?</p>	<p>1 MR. YALOWITZ: Objection. Instruction not to answer. Don't answer it.</p> <p>3 MR. WISE: I'll come back to it.</p> <p>4 Q. You said in your report that you have provided expert testimony -- and I'm on Page 10 -- in the case of United States versus David Staffel, correct?</p> <p>8 A. That's correct.</p> <p>9 Q. That was a --</p> <p>10 A. Article 32 investigation.</p> <p>11 Q. Regarding a shooting in Afghanistan?</p> <p>12 A. Yes, he was charged with murder.</p> <p>13 Q. Did not involve any issues related to the PA or Fatah or the Second Intifada?</p> <p>15 A. No. It was a Taliban extremist.</p> <p>16 Q. You've also written that you've testified before the United States Congress and the Senate, correct?</p> <p>19 A. Correct.</p> <p>20 Q. Does any of that testimony involve the Palestinian Authority, Fatah, or the Second</p>
Page 79	Page 81
<p>1 A. I don't recall. If I had to say, I would probably say it was Rachel Weiser that told me that.</p> <p>4 Q. Did you ever communicate to Rachel that there were many more sources but that you just couldn't include them in the rebuttal because you had run out of time?</p> <p>8 MR. YALOWITZ: Objection. Instruct you not to answer.</p> <p>10 A. I can tell you my professional --</p> <p>11 MR. WISE: You're instructing him not to answer what he told counsel?</p> <p>13 MR. YALOWITZ: Right. I'm instructing him not to answer that question.</p> <p>15 MR. WISE: Let me try it another way.</p> <p>16 Q. You've just told us that there are many more bases for your opinion than what's contained in your report, correct?</p> <p>19 A. In my opinion, yes.</p> <p>20 Q. Did you communicate that to Rachel or any other of the lawyers for the plaintiffs?</p>	<p>1 Intifada?</p> <p>2 A. No.</p> <p>3 Q. You wrote in your report that you filed two Amicus briefs with the United States Supreme Court, correct?</p> <p>6 A. Correct.</p> <p>7 Q. What were the names of those cases?</p> <p>8 A. I can't recall.</p> <p>9 Q. Did either of them involve the Palestinian Authority, Fatah or the Second Intifada?</p> <p>12 A. No, they were directed at Saddam Hussein.</p> <p>14 Q. If you recall the e-mail that I showed you from Rachel Weiser to Brian Hill?</p> <p>16 A. Yes.</p> <p>17 Q. What's the number?</p> <p>18 A. 244.</p> <p>19 Q. Thank you. You'll see in the paragraph that we read before there was a reference to you having worked with military</p>

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

<p style="text-align: right;">Page 82</p> <p>1 organizations across the globe, to include the 2 IDF and Egyptian military, correct? 3 A. Yes. 4 Q. Can you tell me about your work with 5 the IDF, starting with what the IDF is? 6 A. Israeli Defense Force. My first 7 contact -- do you want the entire background? 8 Q. Yes. 9 A. Probably in the 1990s, maybe 1995, I 10 taught at the Judge Advocate General School in 11 Charlottesville, Virginia. I was the deputy 12 chief for the operational law division. We 13 taught, amongst other things, terrorism. 14 We had four military officers, legal 15 officers, that would attend the courses in 16 residence. We'd have Israelis, Egyptians, 17 Kuwaitis, Saudis. Most of the officers would be 18 from the Middle East, as a matter of fact. 19 And in our curriculum, we would 20 encourage discussion about causes, effects of 21 terrorism, and get the perspectives of these</p>	<p style="text-align: right;">Page 84</p> <p>1 A. Probably '93 to '95, as I look back on 2 it now. 3 Q. Those sessions, you'd agree with me, 4 did not deal with the Second Intifada obviously? 5 A. No, no, but they did deal with 6 terrorism. 7 Q. Terrorism involving the Palestinian 8 Authority? 9 A. Yes. Well, terrorism involving the 10 Palestinians in the territories. 11 Q. Which Palestinians? 12 A. Well, we basically looked at the 13 issue. Again, I'm not -- my expertise is not in 14 the origin of these groups and the historical 15 development and the personnel that come and go 16 amongst the groups. My expertise is in looking 17 at the groups in terms of their behavior and 18 plugging that into a framework that's well 19 recognized as a national security discipline. 20 Q. But you are not seeking at this time, 21 1993 to '95, to differentiate between the various</p>
<p style="text-align: right;">Page 83</p> <p>1 officers, how they viewed the issues. One of the 2 officers that I met at that time is now a 3 professor at the University of Denver Law School. 4 Q. What's that person's name? 5 A. His name is -- it will come to me. It 6 starts with a G. It's an Israeli name. Right on 7 the tip of my tongue. I can't remember his name 8 right now, but I subsequently met him on my first 9 trip to Israel after I had retired from the 10 military in 2000. 11 Q. So the meeting started in 1995, you 12 said, correct? 13 A. A lot of meetings with different 14 Israeli officers and Egyptian officers and, as I 15 said, officers from the Middle East, and we would 16 teach terrorism. I had taught there for three 17 years. So there was quite a few officers from 18 different countries around the world, and we were 19 very anxious to get their perspectives. 20 Q. And that went from '95 to '98, you 21 said, right?</p>	<p style="text-align: right;">Page 85</p> <p>1 Palestinian actors? 2 A. No. We were looking at the acts. 3 Q. And even to this day, your expertise 4 is not to differentiate between the various 5 Palestinian actors, correct? 6 A. Well, no, that's not correct. That's 7 part of the framework of the analysis. You have 8 to make a distinction. 9 Q. So let's back up then to the '93 to 10 '95 time period. What distinctions were you 11 drawing between the various Palestinian actors 12 that you were speaking to the Israeli IDF folks 13 about? 14 A. Well, we were looking at the 15 culpability and the hierarchy of where the 16 terrorist acts emanate from, what motivates them, 17 you know, who funds them, how they controlled, so 18 those types of issues were discussed. 19 Q. About the Palestinian Authority? 20 A. Well, no, it would be just the 21 Palestinian -- at that time the Palestinian, you</p>

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

Page 86	Page 88
<p>1 know, PLO, the Palestinian Liberation 2 Organization, and their role in these types of 3 activities, so I didn't -- again, I wasn't 4 concentrating on the historical development of 5 the groups at that time. In fact, the discipline 6 of terrorism law hadn't been created at that 7 time.</p> <p>8 We were, again, concentrating at that 9 early stage on the acts and the motivation for 10 the acts, so we didn't discuss particular groups 11 and draw the linkage at that time. We were more 12 concerned with the legality of it, and training 13 our military lawyers.</p> <p>14 Q. Training your military lawyers on what 15 discipline?</p> <p>16 A. Well, at that time we called it 17 operational law.</p> <p>18 Q. What does that mean?</p> <p>19 A. It was a term that was coined in 1992, 20 and it deals with all the legal aspects 21 associated with deployment outside the</p>	<p>1 2005.</p> <p>2 Q. And what was the circumstance of your 3 first visit?</p> <p>4 A. You have to forgive me. I literally 5 have done a lot of countries. I believe, to the 6 best of my memory without checking my notes, that 7 it was a trip to Herzliya, at the Institute for 8 Counter-Terrorism, ICT. It's run by Boaz Ganor.</p> <p>9 Q. And who is that?</p> <p>10 A. Amos Guiora, that's the law professor, 11 and that's the person I couldn't remember.</p> <p>12 A-M-O-S, Guiora, G-U-I-E-O-R-A (sic), but I'm not 13 sure.</p> <p>14 Q. Who is Boaz Ganor?</p> <p>15 A. He is the director of the Institute 16 for Counter-Terrorism, located in Herzliya, 17 Israel.</p> <p>18 Q. And what is the Institute?</p> <p>19 A. It's a think tank, basically, attached 20 to one of their universities there.</p> <p>21 Q. What was the cause of your trip over?</p>
Page 87	Page 89
<p>1 continental United States in the context of 2 hostilities.</p> <p>3 Q. So essentially it was focused on the 4 rules of engagement that governed actions?</p> <p>5 A. Part of it.</p> <p>6 Q. Was any of it focused on identifying 7 the role of either the Palestinian Authority or 8 Fatah in acts of terror?</p> <p>9 A. No, that was beyond our scope at that 10 time.</p> <p>11 Q. So you said '93 to '95. When was the 12 next time you visited Israel? Sorry, no. Did 13 you visit Israel during the '93 to '95 time 14 frame?</p> <p>15 A. I never visited Israel when I was in 16 the military. I retired in 2000.</p> <p>17 Q. When was the first time you visited 18 Israel?</p> <p>19 A. I'd have to check my passport. I've 20 visited a lot of countries over the last ten 21 years. I would say probably 2004, 2005. I'd say</p>	<p>1 A. He has an annual conference on 2 terrorism, and they had invited me to come 3 participate in a panel discussion and also to 4 deliver a lecture, if I recall.</p> <p>5 Q. And did you do both?</p> <p>6 A. Yes.</p> <p>7 Q. What was the topic of the panel 8 discussion?</p> <p>9 A. I cannot recall.</p> <p>10 Q. Was it about the Palestinian Authority 11 or Fatah in relation to the Second Intifada?</p> <p>12 A. Yeah. The topic was about terrorism 13 and the activities that had been -- well, the 14 fact that Israel had been targeted by terrorists, 15 so that was the topic.</p> <p>16 Q. But when you spoke in your lecture, 17 were you speaking about the Palestinian Authority 18 and Fatah and the Second Intifada?</p> <p>19 A. I probably was.</p> <p>20 Q. Why do you say "probably"?</p> <p>21 A. I've done hundreds and hundreds and</p>

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

Page 90	Page 92
<p>1 hundreds and hundreds and hundreds of speeches.</p> <p>2 I would assume that if I was in Israel at that</p> <p>3 time, that that would have been the topic,</p> <p>4 without checking my notes. I just honestly</p> <p>5 cannot recall. But to the best of my knowledge,</p> <p>6 that's probably what the topic was about.</p> <p>7 I do remember in all the panel</p> <p>8 discussions that Boaz would put on, he would put</p> <p>9 on perspectives from -- well, he put on different</p> <p>10 perspectives. It wasn't a preaching-to-the-choir</p> <p>11 conference.</p> <p>12 Q. Were there Palestinians that spoke at</p> <p>13 the conference?</p> <p>14 A. There were Palestinians there.</p> <p>15 Q. Who were they?</p> <p>16 A. I don't recall.</p> <p>17 Q. What roles did they serve?</p> <p>18 A. I'm sorry?</p> <p>19 Q. What roles did the Palestinian</p> <p>20 speakers serve?</p> <p>21 A. I don't know what positions they</p>	<p>1 Q. How long were you in Israel for that</p> <p>2 trip?</p> <p>3 A. Probably two days, three days.</p> <p>4 Q. Did you visit either the West Bank or</p> <p>5 Gaza during that trip?</p> <p>6 A. I don't recall.</p> <p>7 Q. Have you ever been to the West Bank or</p> <p>8 Gaza?</p> <p>9 A. Not to Gaza. I crossed over into the</p> <p>10 West Bank.</p> <p>11 Q. How long were you in the West Bank?</p> <p>12 A. Oh, no more than just a day, part of a</p> <p>13 day.</p> <p>14 Q. What was the occasion for your trip to</p> <p>15 the West Bank?</p> <p>16 A. I was with some Israelis that I'd gone</p> <p>17 into the West Bank to look at some of the</p> <p>18 security apparatus that had been built by the</p> <p>19 Israelis to protect themselves from terrorist</p> <p>20 attacks.</p> <p>21 Q. Do you remember who the Israelis were?</p>
<p>1 served.</p> <p>2 Q. Do you know what positions they held?</p> <p>3 A. I can't recall. I would assume they'd</p> <p>4 be an elevated position of some sort because --</p> <p>5 Q. Why would you assume that?</p> <p>6 A. I would assume they would be fellow</p> <p>7 scholars that he had invited to participate</p> <p>8 because of the scholarly nature of the</p> <p>9 organization. I would assume they had some</p> <p>10 background, some credentials to offer an opinion.</p> <p>11 Q. On the panel discussion that you were</p> <p>12 involved in at that conference, what was the</p> <p>13 topic?</p> <p>14 A. I don't recall. I would assume, if I</p> <p>15 had to take a guess, it would be about --</p> <p>16 MR. YALOWITZ: Don't guess.</p> <p>17 A. I mean, I don't recall.</p> <p>18 Q. So that was your first trip, you said,</p> <p>19 in 2005, correct?</p> <p>20 A. To the best of my knowledge. It might</p> <p>21 have been 2006, but it could have been 2005.</p>	<p>1 A. Military officers. I don't remember</p> <p>2 their names.</p> <p>3 Q. Do you remember what positions they</p> <p>4 held?</p> <p>5 A. They were officers.</p> <p>6 Q. You may have answered this already:</p> <p>7 How long were you there in the West Bank for?</p> <p>8 A. I didn't spend the night.</p> <p>9 Q. Was that the only time you've been to</p> <p>10 the West Bank?</p> <p>11 A. I think I went one other time.</p> <p>12 Q. Did you have meetings with any</p> <p>13 Palestinian Government officials during the first</p> <p>14 visit that you've described?</p> <p>15 A. Not on the West Bank, but I did at the</p> <p>16 conference. And I've been to other conferences</p> <p>17 in Israel where I've had discussions with</p> <p>18 Palestinian scholars.</p> <p>19 Q. Can you recall the names of any of</p> <p>20 them as you sit here today?</p> <p>21 A. Not at this time.</p>

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

Page 94	Page 96
<p>1 Q. Have you written about your 2 conversations with those scholars in any of the 3 writings that you've cited?</p> <p>4 A. No. Not directly.</p> <p>5 Q. Have you done it indirectly?</p> <p>6 A. Well, obviously they influence your 7 thinking. You want to gather information from 8 different sources, and so yes, I mean, there 9 would be an indirect influence.</p> <p>10 Q. Is there a place in your previous 11 writings where you've written something like, 12 "According to Palestinian sources," and then 13 written a conclusion?</p> <p>14 A. I'd have to check my article on targeted killing that I wrote -- I think I wrote that for the Kentucky Law Journal, or I'm not sure which law journal it came in. I don't 18 recall.</p> <p>19 Q. But that's the one article that you 20 think might include such a reference?</p> <p>21 A. Yes.</p>	<p>1 A. Probably a couple years later.</p> <p>2 Q. And what was the occasion for that 3 visit?</p> <p>4 A. That was a cyber terrorism conference.</p> <p>5 Q. Cyber terrorism meaning the use of 6 computers?</p> <p>7 A. Uh-huh, engaged in terrorism.</p> <p>8 Q. And who sponsored that conference?</p> <p>9 A. That was sponsored in part by a French 10 company. It was organized by Dr. Mohammed -- it 11 will come to me.</p> <p>12 Q. Was he a government official?</p> <p>13 A. He's a judge in Egypt. I've had him 14 come to my Center to speak in the United States, 15 so I'm ashamed I can't remember his last name.</p> <p>16 Q. What year was this second visit?</p> <p>17 A. A couple of years after the first 18 visit.</p> <p>19 Q. And in your discussion of cyber 20 terrorism, did you address the involvement of the 21 PA or Fatah in the Second Intifada?</p>
<p style="text-align: center;">Page 95</p> <p>1 Q. You noted that you had lived in Egypt, 2 correct?</p> <p>3 A. I visited Egypt.</p> <p>4 Q. When did you visit?</p> <p>5 A. At least two occasions.</p> <p>6 Q. Can you tell me about the first?</p> <p>7 A. The first was a conference on 8 terrorism at the Marriott Hotel, 2006, 2007.</p> <p>9 Q. Who sponsored the conference?</p> <p>10 A. I think it was the Egyptian 11 Government.</p> <p>12 Q. And what did you speak about?</p> <p>13 A. I spoke on terrorism, and the lack of 14 a international definition for the term was the 15 theme of my talk.</p> <p>16 Q. Did that talk reference the 17 Palestinian Authority or Fatah during the Second 18 Intifada?</p> <p>19 A. Not directly.</p> <p>20 Q. You said that was the first visit to 21 Egypt. When was the second?</p>	<p style="text-align: center;">Page 97</p> <p>1 A. Not directly.</p> <p>2 Q. How did you do it indirectly?</p> <p>3 A. In the second event or the first one?</p> <p>4 Q. Well, let's start with the second.</p> <p>5 How did you indirectly speak about the PA and 6 Fatah in the Second Intifada in a speech about 7 cyber terrorism?</p> <p>8 A. I recall that the speech had a part in 9 it when there was tensions or conflict between 10 the Palestinian Authority or the PLO or the PN 11 and Israel, you would see a spike in cyber 12 activity, and drew some parallels between that.</p> <p>13 And cyber activity, I mean by harmful cyber 14 activity.</p> <p>15 Q. During the Second Intifada?</p> <p>16 A. Again, that was years ago, but I'm 17 sure when I delivered the speech, I had done some 18 research on that. As I recall, I did have some 19 stats about the spike in cyber warfare, cyber 20 terrorist activity against the Israelis, the 21 servers, and the correlation was when you have,</p>

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

Page 98	Page 100
<p>1 you know, spikes in actual physical violence, 2 you'll see a correlation between the cyber 3 attacks increasing.</p> <p>4 Q. Have you retained your research on 5 that subject?</p> <p>6 A. Most of the notes, I do. And, again, 7 many of the speeches I do, I prepare notes, but I 8 don't have a good habit of keeping them.</p> <p>9 Q. Have you written on the subject of the 10 PA and Fatah's use of cyber terrorism?</p> <p>11 A. I've written on cyber terrorism, but I 12 think when I wrote my latest chapter on cyber 13 terrorism, that I revised it and I kept it -- I 14 didn't go into specific instances or, you know -- 15 I think I used as an example, when I edited the 16 thing, China.</p> <p>17 Q. Have you ever lived in Kuwait?</p> <p>18 A. I haven't lived in Kuwait, but I 19 visited Kuwait.</p> <p>20 Q. What was the circumstance of your 21 visit to Kuwait?</p>	<p>1 curriculum that, you know, they -- so I don't 2 know. We obviously -- I don't know.</p> <p>3 Q. It states in your initial report that 4 you served as a senior legal advisor for the 5 United States Army Special Forces?</p> <p>6 A. I did.</p> <p>7 Q. When was that?</p> <p>8 A. I was the senior legal advisor from 9 1995 to 1997, right when I left the JAG School.</p> <p>10 Q. So I take it, obviously, then, that 11 none of that teaching involved a PA or Fatah 12 during the Second Intifada, correct?</p> <p>13 A. I wasn't doing any teaching on that 14 job.</p> <p>15 Q. I'm sorry, none of your advising 16 involved advising on the PA or Fatah in relation 17 to the Second Intifada?</p> <p>18 A. No, the Second Intifada hadn't 19 occurred.</p> <p>20 Q. You wrote that you were the Deputy 21 Chief of the International and Operational Law</p>
Page 99	Page 101
<p>1 A. I was asked to develop the curriculum 2 at the Kuwaiti University, for terrorism.</p> <p>3 Q. And what year was that?</p> <p>4 A. About four years ago, approximately.</p> <p>5 Q. And did you create a written --</p> <p>6 A. Yes, I did. I --</p> <p>7 Q. -- document for that?</p> <p>8 MR. YALOWITZ: You just got to let him 9 finish.</p> <p>10 THE WITNESS: I'm sorry.</p> <p>11 Q. Did you create a written document in 12 relation to your work in Kuwait?</p> <p>13 A. Yes.</p> <p>14 Q. And is that cited in your list of 15 prior writings?</p> <p>16 A. It wasn't published, so I didn't cite 17 it.</p> <p>18 Q. Did any of that involve discussions of 19 the Palestinian Authority or Fatah during the 20 Second Intifada?</p> <p>21 A. I'd have to look at the written</p>	<p>1 Division of the Pentagon?</p> <p>2 A. Yes.</p> <p>3 Q. What years was that?</p> <p>4 A. That would have been '97 to '99.</p> <p>5 Q. So that, again, was predating the time 6 period covered in your report?</p> <p>7 A. Yes.</p> <p>8 Q. Let's turn to your report, sir, and I 9 want to start with the section on Page 13. The 10 very top line, the report states, "Faluji was 11 quoted as saying that the violence was 'planned 12 since [Arafat] the President returned from the 13 recent talks at Camp David' when peace talks 14 collapsed in July 2000, Footnote 1."</p> <p>15 A. Uh-huh.</p> <p>16 Q. That is the footnote that you have 17 spoken about before as being unable to locate, 18 correct?</p> <p>19 A. I did not view it. I did not view 20 that YouTube footnote.</p> <p>21 Q. The report, if you'll turn with me to</p>

<p style="text-align: right;">Page 102</p> <p>1 Page 15, at the first full paragraph, your report 2 discusses document seized from PA offices by the 3 Israeli military during Operation Defensive 4 Shield, right?</p> <p>5 A. Correct.</p> <p>6 Q. And through the rest of that page and 7 the first two lines of the next page, you cite 8 four times to a report produced by the Israeli 9 Ministry of Foreign Affairs, correct?</p> <p>10 A. Yes, that's correct.</p> <p>11 Q. How many documents were seized during 12 Operation Defensive Shield?</p> <p>13 A. The number of documents? I don't 14 know.</p> <p>15 Q. Have you viewed any of the documents 16 that were seized?</p> <p>17 A. I viewed translations of the 18 documents.</p> <p>19 Q. Who did the translations?</p> <p>20 A. I do not know.</p> <p>21 Q. Where did you obtain the translations?</p>	<p style="text-align: right;">Page 104</p> <p>1 Second, I think it's reasonable to 2 conclude that if they'd been adopted by the 3 Israelis, then I would presume that what they're 4 purporting to be true, is true.</p> <p>5 Q. When you read a statement from the 6 Israeli Government, do you uniformly accept that 7 statement to be true because of its source?</p> <p>8 A. When I read a statement by any 9 government, my first question is what is the 10 government? If it's a democracy, I presume it to 11 be true. If it's a totalitarian regime, my 12 initial thought is that it's false.</p> <p>13 Q. I take it then that you presume that 14 statements from the Israeli Government are true?</p> <p>15 A. Israel is a democracy. They are bound 16 up with our same traditions, rule of law. They 17 have a system of checks and balances. So, yes.</p> <p>18 Q. How would you define the Palestinian 19 Authority?</p> <p>20 A. A totalitarian system.</p> <p>21 Q. And I take it from your previous</p>
<p style="text-align: right;">Page 103</p> <p>1 A. Well, I obtained them from the source 2 that cite it.</p> <p>3 Q. Other than the source that cite it, 4 have you done any other independent translation 5 of the documents that were allegedly seized?</p> <p>6 A. No, I haven't.</p> <p>7 Q. Have you viewed any other reports 8 about those documents other than the report that 9 you cited in your report?</p> <p>10 A. I cite the congressional resolutions 11 that reference these documents, so they came to 12 the same conclusion I did.</p> <p>13 Q. And what was your conclusion?</p> <p>14 A. They're authentic.</p> <p>15 Q. And tell me all of the bases for your 16 conclusion that the documents were authentic.</p> <p>17 A. Well, I think the primary source would 18 be the fact that our Congress, in a bipartisan 19 demonstration in the resolutions that I've cited, 20 have found as a finding of fact that they are 21 what they purport to be.</p>	<p style="text-align: right;">Page 105</p> <p>1 analysis, you then presume that statements from 2 the Palestinian Authority are false?</p> <p>3 A. My initial presumption is to look at 4 those statements with skepticism, yes, as I would 5 any totalitarian regime.</p> <p>6 Q. And have you applied those 7 presumptions to all of the statements you 8 reviewed in connection with the drafting or 9 review of your reports?</p> <p>10 A. I'm not sure I understand the 11 question.</p> <p>12 Q. The assumptions that you just told us 13 about Israel and the PA, did you apply those 14 assumptions --</p> <p>15 A. Yes.</p> <p>16 MR. YALOWITZ: Let him -- you got to 17 let him ask the question.</p> <p>18 Q. Did you apply those assumptions in the 19 drafting of your rebuttal report?</p> <p>20 MR. YALOWITZ: Object to the form.</p> <p>21 Because it was interrupted, it's disjointed.</p>

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

Page 106	Page 108
1 Just ask your question again.	1 deciding whether to rely on these documents in
2 Q. The presumptions you've just described	2 forming your opinions?
3 about Israeli Government and the PA, did you	3 A. I've considered them.
4 apply those assumptions in the drafting of your	4 Q. And I take it that you've rejected the
5 rebuttal report?	5 suggestions?
6 A. Yes.	6 A. I rejected, yes.
7 Q. And in your review of the initial	7 Q. And on what basis?
8 report?	8 A. As I said, our Congress has adopted
9 A. Yes.	9 them as true in making certain findings of facts
10 Q. Are you aware that questions have been	10 in a bipartisan effort, vote, and we have a lot
11 raised about the authenticity of the documents	11 of fact finders that are associated with
12 seized in Operation Defensive Shield?	12 supplying information to our members of Congress.
13 A. Yes.	13 Also, I give the presumption of
14 Q. Have you ever heard of someone named	14 authenticity and validity to the statements of
15 Jean-Francois Legrain?	15 governments that come from democratic traditions.
16 A. I've heard the name.	16 Q. I'm going to show you what's been
17 Q. Have you read the analysis of the	17 previously marked as Defendants' Exhibit 203.
18 documents?	18 You recognize that as the document that is cited
19 A. His analysis?	19 in your initial report at Footnotes 8, 9, 10 and
20 Q. Yes.	20 11?
21 A. I'd have to look at it again.	21 A. If I could have a moment to look
Page 107	Page 109
1 Q. As you sit here today, do you recall	1 through it.
2 having read it?	2 Q. Sure.
3 A. I can't associate his name with that	3 (Witness Reviews Document.)
4 topic. I'd have to look at the name and the	4 A. This appears to be the document, yes.
5 topic together.	5 Q. Who is Dani Naveh, D-A-N-I, capital
6 Q. When you say you've heard of the	6 N-A-V-E-H?
7 debate regarding the documents' authenticity,	7 A. I've never met him.
8 what can you tell me about what you've considered	8 Q. Do you know who he is?
9 suggesting that there may be a problem with the	9 A. He's the Minister of Parliamentary
10 authenticity of the documents?	10 Affairs.
11 MR. YALOWITZ: Object to the form.	11 Q. You say that based on your reading --
12 A. I'm aware that some people have made	12 A. Based on the document itself, yes.
13 the claim that they're not authentic.	13 Q. In the report that you adopted, this
14 Q. And do you know the basis for those	14 document is cited four times, correct?
15 claims?	15 (Witness Reviews Document.)
16 A. I suppose -- well, I don't know, no.	16 A. That appears to be correct.
17 I suppose there's a whole litany of bases for	17 Q. And have you gone through the document
18 those complaints.	18 marked as 203 to check the source for the
19 Q. Do you know what that litany is?	19 citations in the report you signed?
20 A. That they were forged.	20 A. Did I go through the document? Yes.
21 Q. Have you considered those claims in	21 Q. So the first citation --

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

Page 110	Page 112
1 A. Okay. Citation Number 8?	1 see it. Okay. Yes.
2 Q. Number 8.	2 Q. This is the e-mail we discussed before
3 A. Okay.	3 from Nitsana Darshan-Leitner to you attaching the
4 Q. Whereas the report states, "Documents	4 two Word documents, correct?
5 seized from PA offices by the Israeli military	
6 during Operation Defensive Shield (2002) further	
7 demonstrated that Fatah, the dominant faction of	
8 the Palestinian Authority, bankrolled nearly	
9 every aspect of the AAMB's terrorist	
10 operations-from explosives to guns and gas money.	
11 Footnote 8."	
12 What is the source -- what portion of	
13 the document that you have as 203 supports that	
14 contention in your report?	
15 A. It's cumulative. As you see, there's	
16 no page number cited. If you look at the	
17 document and read it, that's the conclusion that	
18 I came to.	
19 Q. When you say that's the conclusion you	
20 came to, you didn't write that sentence, right?	
21 A. Everything in this report I adopt as	
Page 111	Page 113
1 my own. It reflects my professional opinion. I	1 they cannot be separated."
2 didn't pen it, but I adopt it as 100 percent	2 Q. My question is what is the unequivocal
3 reflecting my professional opinion based on these	3 proof cited in that report?
4 documents and my knowledge of the organization,	4 A. I'm not sure I follow the question.
5 operation and behavior of terrorist	5 Q. The sentence that's in quotations
6 organizations.	6 states that, "The captured documents proved
7 Q. And you don't know who penned that	7 unequivocally that the Fatah organization and the
8 sentence?	8 Al-Aqsa Martyrs Brigade are one and the same and
9 A. No, I don't know who did the draft.	9 they cannot be separated," correct?
10 Q. It was provided to you by plaintiffs'	10 A. That's what the document states, yes.
11 counsel, correct?	11 Q. Based on your review of the document,
12 A. This draft was provided to me. I	12 what is the unequivocal proof?
13 carefully reviewed it, I made changes and I've	13 A. You're asking me to find the cite
14 adopted it exactly as my own.	14 where that came from in the quotation?
15 Q. And you signed off on it the next day?	15 Q. No, I'm asking you to tell me in your
16 A. Well, I don't know -- no, it wasn't	16 words what the unequivocal proof is that Fatah
17 the next day, no. I spent some time looking	17 and Al-Aqsa are one and the same.
18 through this document.	18 A. That's a quotation from the Israeli
19 Q. Let's go back to Exhibit 239. Do you	19 report.
20 still have that in front of you?	20 Q. So the quotation is lifted verbatim
21 A. 239. I don't see it -- oh, yes, I do	21 from the Israeli report and dropped into the

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

Page 114	Page 116
1 report you signed, correct?	1 A. That's why there's a quotation mark
2 A. I think so. I'd have to find the	2 around it, yes.
3 quote, unless you can help me out and find it for	3 Q. Same thing with the next sentence that
4 me. Starts on Page 4. Okay.	4 ends with Footnote 10, right?
5 Q. Look at Number 5.	5 A. I'd have to find that quote again.
6 A. Okay.	6 Again, my document's marked up, and obviously I
7 Q. So the first sentence is accurately	7 moved -- when I went through this in March, I
8 reproduced from Exhibit 203 into Page 15 of the	8 didn't use this clean copy, so if you can point
9 report you signed, correct?	9 me to the sentence, I can tell you whether
10 A. Yes.	10 that --
11 Q. But you can't tell me what the basis	11 Q. Well, let me ask you about what you
12 is for the conclusion that those documents proved	12 did in March. What do you mean you didn't use
13 unequivocally that Fatah and Al-Aqsa are one and	13 this clean copy? What did you use in March?
14 the same, right?	14 A. Well, obviously I got a hold of a copy
15 A. That's the conclusion of this report.	15 and I checked, you know, the citations to ensure
16 That's one of their conclusions.	16 that they, you know, were accurate.
17 Q. But you can't tell me the basis for	17 Q. And so your review consisted of making
18 that conclusion?	18 sure that what was in the text that you had been
19 A. Well, the documents obviously.	19 sent actually appeared in the report that you
20 Q. Which documents?	20 found, right?
21 A. When you take the wide view and look	21 A. Yes.
Page 115	Page 117
1 at all the documents, I think a reasonable person	1 Q. Look at Page 14.
2 would come to that conclusion.	2 A. 14 of the?
3 Q. Which specific documents cited in this	3 Q. I'm sorry, of Exhibit 238.
4 report are the basis for your adoption of the	4 A. 238?
5 conclusion that Fatah and Al-Aqsa are one and the	5 Q. The report you adopted.
6 same?	6 A. Oh, the report. Page 14?
7 A. You want me to read the report to you?	7 Q. Page 14.
8 Q. No, I'm asking you for the basis for	8 A. Okay.
9 your opinion, Professor.	9 Q. First paragraph, first sentence, you
10 A. This report. These documents indicate	10 write, "During the intifada, Arafat's Fatah
11 this is a -- this is beyond a smoking gun.	11 faction through its Al-Aqsa Martyrs Brigade
12 Q. But you can't cite to a single	12 (AAMB) co-opted Islamic symbols and slogans,"
13 individual document?	13 correct?
14 A. No, but I --	14 A. Yes.
15 MR. YALOWITZ: Objection.	15 Q. What Islamic symbols and slogans are
16 A. I would join with the congressional	16 you referring to?
17 resolutions that have cited the same document,	17 A. Well, from the rhetoric that was
18 come to the same factual conclusion.	18 allowed on Palestinian Authority television, they
19 Q. For this sentence, you would agree	19 would adopt the theme of martyrdom and embrace
20 with me that it is just lifted from one report	20 that concept as a motivation to incite people to
21 and placed into the report you signed, correct?	21 commit murder, and that is a theme that you see

<p style="text-align: right;">Page 118</p> <p>1 in radical Islamic extremism, that they adopt 2 that theme. And it's not a secular issue, 3 obviously. It's a religious issue. 4 Q. Other than martyrdom, are you 5 referring to anything else? 6 A. Well, the word Jihad, of course, is 7 also a word that is used by radical Islamic 8 extremists, and it motivates people to engage in 9 suicide attacks and targeting civilians. 10 Q. Which symbols are you referring to? 11 A. Well, I guess the symbols are the 12 symbolic use of these terms and the gestures and 13 mannerisms that people engage in when they incite 14 people in the name of radical Islam. 15 Q. You didn't write this sentence, 16 correct? You didn't pen this sentence? 17 A. No, I did not pen that sentence, but I 18 adopt it. 19 Q. Did you speak to the author who penned 20 it? 21 A. I don't know who the author was.</p>	<p style="text-align: right;">Page 120</p> <p>1 A. Trying to read the -- so he's got, 2 "According to U.S. State Department"? 3 Q. Yes. Then the report states, "Fatah's 4 AAMB," correct? 5 A. Uh-huh. Yes. 6 MR. WISE: Can you mark this for me. 7 (Defendants' Deposition Exhibit Number 8 248 was marked for identification.) 9 BY MR. WISE: 10 Q. Professor, you're holding Exhibit 248, 11 correct? 12 A. I am. 13 Q. You recognize that as the document 14 cited in Footnote 4 on Page 14? 15 A. I'm looking at my documents here. 16 (Witness Reviews Documents.) 17 A. Yes, I see that. Yes, uh-huh. 18 Q. That is the document cited? 19 A. Yes. 20 Q. And if you turn to Page 3, that is 21 where the description of the Al-Aqsa Martyrs</p>
<p style="text-align: right;">Page 119</p> <p>1 Q. Do you know what "Islamic symbols" the 2 author of that passage was referring to? 3 A. I know what I refer to it as. I refer 4 to it as a synonym for the slogans. I mean it's 5 another way to say a slogan. A symbol is not 6 necessarily something that's on a flag or on an 7 emblem, but it involves, you know, all the 8 trappings of radical Islam. 9 Q. So in your view, symbols and slogans 10 are one and the same? 11 A. They can be. 12 Q. But you didn't speak to the author to 13 figure what the distinction was that the author 14 was drawing? 15 MR. YALOWITZ: Objection. 16 A. I didn't know the author. 17 Q. The next paragraph, you cite to a 2002 18 U.S. State Department report -- or the report 19 cites to a 2002 U.S. State Department report as 20 support for the proposition that the Al-Aqsa 21 Martyrs Brigade was "Fatah's," correct?</p>	<p style="text-align: right;">Page 121</p> <p>1 Brigade appears in that document? 2 A. That is correct. 3 Q. The actual language of the State 4 Department report was that Al-Aqsa, "Consists of 5 an unknown number of small cells of terrorists 6 associated with the Palestinian Fatah 7 organization," correct? 8 A. Yes. 9 Q. The State Department report cited in 10 the report that you signed did not state that the 11 Al-Aqsa Martyrs Brigade was part of Fatah, 12 correct? 13 A. It just says -- it uses the word 14 "associated with." 15 Q. Didn't use the word "part of," 16 correct? 17 A. No, it did not. 18 Q. Did not say that Fatah controlled the 19 Al-Aqsa Martyrs Brigade, correct? 20 A. It didn't use the word "controlled." 21 Q. Or that the Al-Aqsa Martyrs Brigade</p>

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

Page 122	Page 124
1 was Fatah's, right?	1 State Department report that's cited, correct?
2 A. I don't see that there.	2 A. That's one of the sources.
3 Q. Would you acknowledge that that is a	3 Q. There are no other sources cited for
4 distinction with a difference relevant to your	4 this sentence, are there?
5 analysis?	5 A. Again, if I had the time -- and again,
6 A. No.	6 this, as you indicated, was researched over a
7 Q. To you, "association with" is the same	7 very quick period of time, as I recall now, when
8 as "controlled by?"	8 I got that phone call in the morning. It was a
9 A. Can be.	9 lot of man hours to send back my comments. So,
10 Q. You are associated with St. Mary's	10 yeah -- I mean, it's --
11 University School of Law, correct?	11 Q. When you say -- I'm sorry.
12 A. Yes.	12 A. So, yes.
13 Q. Would you describe yourself as	13 Q. When you say this report was
14 controlled by the school?	14 researched, do you have any knowledge of how the
15 A. Can be.	15 person who penned that sentence went about
16 Q. In what way?	16 reaching the conclusion contained in it?
17 A. If the dean tells me I've got a class	17 A. I don't know the person.
18 at 8, I've got a class at 8.	18 Q. So the answer is no?
19 Q. Okay. When you go out in the public	19 A. No.
20 speaking circuit and speak, are you being	20 Q. The report that you signed also cites
21 controlled by St. Mary's?	21 to the designation of the Al-Aqsa Martyrs Brigade
Page 123	Page 125
1 A. Can be.	1 as a foreign terrorist in 2002 by the U.S.
2 Q. You, in fact, almost always start your	2 Department of State, correct?
3 speeches with a disclaimer that you are not	3 A. Yes, the U.S. State Department made
4 speaking on behalf of St. Mary's, correct?	4 that determination in 2002.
5 A. That's control. Yeah. They want me	5 Q. Has Fatah ever been designated as a
6 to say that, and that is control. They want me	6 foreign terrorist organization by the State
7 to make that very clear, so that is an element of	7 Department?
8 control over my freedom of speech.	8 A. No.
9 Q. Okay. So is it your position now that	9 Q. What about the Palestinian Authority?
10 your employment with St. Mary's means that they	10 A. Not to my knowledge.
11 control you?	11 Q. Has the PLO ever been designated as a
12 A. To a degree, they do.	12 foreign terrorist organization by the State
13 Q. And did you engage in that type of	13 Department?
14 analysis as you agreed to what was written in	14 A. Not in recent memory, not to my
15 this report?	15 knowledge. There was some discussion several
16 A. I think this is an accurate	16 decades ago, but not now.
17 description. I think there is a direct	17 Q. And you know that the U.S. Government
18 association, link that at times is controlling,	18 allows the PLO to maintain offices in Washington,
19 certainly under the legal parameters, between	19 D.C. and New York, correct?
20 Fatah and the Martyrs Brigade.	20 A. Correct.
21 Q. And that conclusion is based on this	21 Q. Turning back to 248, the State

<p style="text-align: right;">Page 126</p> <p>1 Department report, later on in the description of 2 the Al-Aqsa Martyrs Brigade, the report states, 3 under the heading External Aid, "In the last 4 year, numerous public accusations suggest Iran 5 and Hizballah are providing support to al-Aqsa 6 elements, but the extent of external influence on 7 al-Aqsa as a whole is not clear." Do you see 8 that?</p> <p>9 A. Yes, I do.</p> <p>10 Q. Do you know what the numerous public 11 accusations are?</p> <p>12 A. Do I know where they got this 13 information to write this sentence? No.</p> <p>14 Q. Did you do any independent research to 15 verify the validity of any of the sources that 16 were cited in the initial report?</p> <p>17 A. Well, I have a basis of knowledge. 18 For example, Iran, a lot of basis of knowledge 19 about Iran's support to Hizballah, Hamas, other 20 terrorist organizations, so I have a -- you know, 21 just based on my general scholarship on the</p>	<p style="text-align: right;">Page 128</p> <p>1 pull TIME Magazine, you can look at the 2 resolutions. I don't really have to double-check 3 whether the resolution is the correct resolution. 4 So, no.</p> <p>5 Q. Do you know whether the Al-Aqsa 6 Martyrs Brigade was mentioned in the State 7 Department's 2001 report?</p> <p>8 A. I can't recall.</p> <p>9 Q. This is an annual report that the 10 State Department puts out, correct?</p> <p>11 A. The State Department puts out an 12 annual report.</p> <p>13 Q. And have you researched the State 14 Department's subsequent statements about Al-Aqsa 15 Martyrs Brigade?</p> <p>16 A. Well, I have, and I can't recall right 17 now precisely which year I looked at and what the 18 language said because I've looked at CSR reports, 19 I've looked at resolutions, bills.</p> <p>20 MR. WISE: Can you mark that for me, 21 please.</p>
<p style="text-align: right;">Page 127</p> <p>1 issue, I've got a wide basis. It's not like the 2 issue of terrorism law is something that is 3 foreign to me.</p> <p>4 Q. Did you do any independent research to 5 verify the validity of any of the sources cited 6 in the initial report you signed?</p> <p>7 A. You mean additional independent --</p> <p>8 Q. Yeah.</p> <p>9 A. Well, yeah.</p> <p>10 Q. And what was that?</p> <p>11 A. Well, you'll see some of it reflected 12 in my rebuttal to the Robinson report. I'd have 13 to get the other report out and go through it 14 with you, I guess.</p> <p>15 Q. Let's talk about just the initial 16 report. Between when you received the drafts and 17 when you signed it, did you do any independent 18 research regarding the validity of the sources 19 cited in that report?</p> <p>20 A. Well, I found that the sources were 21 all mainstream sources, so, you know, you can</p>	<p style="text-align: right;">Page 129</p> <p>1 (Defendants' Deposition Exhibit Number 2 249 was marked for identification.)</p> <p>3 BY MR. WISE:</p> <p>4 Q. Professor, that's 249. I'll ask you 5 if you recognize that as the 2006 version of the 6 State Department report?</p> <p>7 A. It says 2007 at the top.</p> <p>8 Q. The date that it is produced, do you 9 know what that means in relation to what year the 10 report is covering?</p> <p>11 A. My only comment is I don't see where 12 it says 2006 on here.</p> <p>13 Q. Do you know, based on how the State 14 Department produces its reports, how the date of 15 publication relates to the time period the State 16 Department is covering?</p> <p>17 A. No.</p> <p>18 Q. Will you turn to Chapter 6.</p> <p>19 A. Do you know what page that would be 20 on?</p> <p>21 Q. Well, I'm trying to figure out how the</p>

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

Page 130	Page 132
<p>1 page convention works. The bottom says 2/35.</p> <p>2 A. It's going to be near the back, right?</p> <p>3 Q. It's about two-thirds of the way</p> <p>4 through. And I apologize that I don't have this</p> <p>5 better marked.</p> <p>6 A. I've got Chapter 6.</p> <p>7 Q. Okay. If you're at Chapter 6, then</p> <p>8 turn to the second page of Chapter 6, and at the</p> <p>9 bottom of the page you'll see a reference to</p> <p>10 Al-Aqsa Martyrs Brigade.</p> <p>11 A. I see it.</p> <p>12 Q. In this report, the State Department</p> <p>13 wrote under Description, "The al-Aqsa Martyrs</p> <p>14 Brigade" -- strike that.</p> <p>15 Look at the last sentence of the first</p> <p>16 paragraph. It states, "Al Aqsa has no central</p> <p>17 leadership; the cells operate with autonomy,</p> <p>18 although they remained ideologically loyal to</p> <p>19 Palestinian Authority (PA) President and Fatah</p> <p>20 party head Yasser Arafat until his death in</p> <p>21 2004," correct?</p>	<p>1 the secular-nationalist Fatah movement. Al-Aqsa</p> <p>2 emerged at the outset of the 2000 Palestinian</p> <p>3 al-Aqsa Intifada, splitting from the Fatah party</p> <p>4 to attack Israeli military targets and settlers</p> <p>5 with the aim of driving Israel from the West Bank</p> <p>6 and Gaza Strip and establishing a Palestinian</p> <p>7 state. Al-Aqsa has no central leadership; the</p> <p>8 sells operate with autonomy, although they</p> <p>9 remained ideologically loyal to Palestinian</p> <p>10 Authority (PA) President and Fatah party head</p> <p>11 Yasser Arafat until his death in 2004," correct?</p> <p>12 A. Yes.</p> <p>13 Q. Were you familiar with this State</p> <p>14 Department report when you adopted your initial</p> <p>15 report?</p> <p>16 A. I'm familiar --</p> <p>17 MR. YALOWITZ: Object to the form.</p> <p>18 A. I'm familiar the State Department puts</p> <p>19 out an annual report every year. I'm familiar</p> <p>20 with the Martyrs Brigade since their creation has</p> <p>21 been in that report. As to this specific report,</p>
Page 131	Page 133
<p>1 A. I'm sorry, I could not follow where</p> <p>2 you were reading.</p> <p>3 Q. I'm sorry.</p> <p>4 A. I was on the first sentence you</p> <p>5 started to read, and I was --</p> <p>6 Q. Okay. The third sentence of that</p> <p>7 paragraph.</p> <p>8 A. What's the title heading of it?</p> <p>9 Q. "Description."</p> <p>10 A. Okay. Where it says, "Al Aqsa Martyrs</p> <p>11 Brigade consists?"</p> <p>12 Q. Right, that paragraph.</p> <p>13 A. Okay.</p> <p>14 Q. Look at the third sentence, which</p> <p>15 starts, "Al-Aqsa has no central leadership."</p> <p>16 A. It looks like the first sentence under</p> <p>17 description is one long sentence. You're under</p> <p>18 Activities then.</p> <p>19 Q. Let's read the whole description.</p> <p>20 "The al-Aqsa Martyrs Brigades consists of</p> <p>21 localized cells of Palestinian militias loyal to</p>	<p>1 I can't recall.</p> <p>2 Q. Do you read the State Department</p> <p>3 report when it comes out?</p> <p>4 A. I generally do, yeah.</p> <p>5 Q. But you can't recall whether you were</p> <p>6 aware of that specific finding in March of this</p> <p>7 year?</p> <p>8 A. I know I've read it, but how deeply it</p> <p>9 registered, I can't tell you.</p> <p>10 Q. A little bit later in this same</p> <p>11 report, I believe under the description of</p> <p>12 External Aid on the next page, the report states,</p> <p>13 "Iran has exploited al-Aqsa's lack of leadership</p> <p>14 and funds by providing aid and exerting influence</p> <p>15 over the organization," correct?</p> <p>16 A. That's what it says.</p> <p>17 Q. Do you know what that is a reference</p> <p>18 to?</p> <p>19 A. Well, it's common knowledge that Iran</p> <p>20 provides support to terrorist organizations</p> <p>21 around the world. They do it every year. And</p>

<p style="text-align: right;">Page 134</p> <p>1 obviously if they see an opportunity to increase 2 their influence, they will take that opportunity, 3 as we're seeing today in Syria.</p> <p>4 Q. And in Syria, they're exerting 5 influence because of a lack of leadership, 6 correct, in Syria?</p> <p>7 A. Well, they're actually supporting the 8 regime, so I think there is leadership. I 9 wouldn't say there's a lack of leadership, no. 10 Assad is still firmly in power.</p> <p>11 Q. In the State Department report about 12 Al-Aqsa Martyrs Brigade, when it refers to 13 exploiting Al-Aqsa's lack of leadership, do you 14 know what that's a reference to?</p> <p>15 A. Well, I would assume, as you can see 16 from this State Department, they don't use the 17 word "associated" anymore, so they're recognizing 18 that the Brigade doesn't have the influence it 19 once had. And so Iran obviously -- whoever wrote 20 this report is coming to the conclusion that Iran 21 sees it as an opportunity to increase its</p>	<p style="text-align: right;">Page 136</p> <p>1 2006, 2007?</p> <p>2 A. Well, it's a general principle.</p> <p>3 Iran's a state sponsor of terrorism. They look 4 for opportunities to exploit the use of 5 terrorism. And if they perceive that that's an 6 opportunity for them to have more influence in 7 the region, then they will take advantage of it. 8 That's what they've been doing for years, with 9 not just this Brigade, but with other terrorist 10 organizations.</p> <p>11 Q. Later on, on Page 14, the report cites 12 to a March 21st, 2002 Al-Aqsa Martyrs Brigade, or 13 AAMB, suicide bomber who "detonated himself in 14 the middle of a crowded street in Jerusalem, 15 killing three and injuring 86," correct?</p> <p>16 A. Yes.</p> <p>17 Q. Do you know what the basis for that 18 sentence in the report was?</p> <p>19 A. Well, the basis for that particular 20 sentence, I believe the footnote used was from 21 the Israeli Minister of Foreign Affairs, which I</p>
<p style="text-align: right;">Page 135</p> <p>1 influence over this terrorist organization.</p> <p>2 Q. You said that was your assumption, 3 correct?</p> <p>4 A. You asked me for my assumption, yeah.</p> <p>5 Q. I think I asked you for the basis of 6 your opinion.</p> <p>7 A. Well, you asked me for the basis of 8 this guy's opinion. I don't know.</p> <p>9 Q. You haven't spoken to the author of 10 the report?</p> <p>11 A. No. I would agree with it.</p> <p>12 Q. What would your basis for agreeing 13 with it be?</p> <p>14 A. I've been doing this stuff for 13 15 years --</p> <p>16 Q. So what is your --</p> <p>17 A. -- looking at terrorist organizations, 18 how they operate, how they function, how they 19 behave, and this is what I would expect to see.</p> <p>20 Q. And what can you tell us about Iran's 21 exploitation of the lack of Al-Aqsa leadership in</p>	<p style="text-align: right;">Page 137</p> <p>1 have a copy here.</p> <p>2 Q. Let me hand you what I'll have marked.</p> <p>3 A. This was also reported in the 4 mainstream media, of course.</p> <p>5 (Defendants' Deposition Exhibit Number 6 250 was marked for identification.)</p> <p>7 BY MR. WISE:</p> <p>8 Q. That is the document cited in Footnote 9 6, correct?</p> <p>10 A. Yes, that's the document cited in 11 Footnote 6.</p> <p>12 Q. Do you see a reference in that 13 document to the March 21st bombing that's 14 described in the report?</p> <p>15 A. Well, I see the report. I see the 16 document.</p> <p>17 Q. Would you agree there's no reference 18 in that document to the March 21st?</p> <p>19 A. That appears to be a mistake in the 20 footnote.</p> <p>21 Q. In the highlighted document you have</p>

<p style="text-align: right;">Page 138</p> <p>1 in front of you, did you catch that mistake in 2 the footnote when you reviewed these materials 3 before you signed your report?</p> <p>4 A. No, I didn't catch that mistake.</p> <p>5 Q. I'm handing you Defendants' Exhibit 6 210, which was previously marked. You recognize 7 this as the 2002 State Department Patterns of 8 Global Terrorism report?</p> <p>9 A. Yes, I do.</p> <p>10 Q. I'd ask you to turn to Page 85 of this 11 document.</p> <p>12 A. Okay.</p> <p>13 Q. Middle of the page, if you'd look at 14 the date of 21 March?</p> <p>15 A. Yes.</p> <p>16 Q. The State Department report states, 17 "In Jerusalem, a suicide bomber detonated the 18 explosive device he was wearing, killing three 19 persons and wounding 86 others, including two 20 U.S. Citizens, according to U.S. Consulate and 21 media reporting. The Palestinian Islamic Jihad</p>	<p style="text-align: right;">Page 140</p> <p>1 the suicide attack.</p> <p>2 Q. What is, in your view, the 3 relationship between Palestinian Islamic Jihad 4 and the Al-Aqsa Martyrs Brigade?</p> <p>5 A. I would look at the relationship 6 between the PA, Palestinian Authority, and Yasser 7 Arafat in these various organizations.</p> <p>8 Organizations are merely groups that have 9 splintered out that have an association with the 10 PLO, Yasser Arafat and Fatah.</p> <p>11 Q. Palestinian Islamic Jihad is a group, 12 in your view, that splintered out from the 13 Palestinian Authority, Fatah and the PLO?</p> <p>14 A. They're a group that's associated with 15 them.</p> <p>16 Q. What is the association?</p> <p>17 A. Well, again, that question is really 18 part of a larger question. What is the 19 association of these terrorist units vis-a-vis 20 Yasser Arafat, PLO.</p> <p>21 Q. Aside from being Palestinian, what</p>
<p style="text-align: right;">Page 139</p> <p>1 claimed responsibility." Do you see that?</p> <p>2 A. I do see that, yes.</p> <p>3 Q. Were you aware of the Palestinian 4 Islamic Jihad's claim of responsibility when you 5 signed the report on March 23rd?</p> <p>6 A. I see this report indicates that that 7 is their conclusion.</p> <p>8 Q. Does seeing that section of the report 9 cause you to question the accuracy of what is in 10 the report that you signed?</p> <p>11 A. There appears to be a contradiction 12 between the name of the organization. But, of 13 course, the Palestinian Islamic Jihad are closely 14 related as a terrorist group to the Martyrs 15 Brigade. I mean, that's not an error that's, in 16 my opinion, that is -- I mean, you've got two 17 different groups that conducted the attack, if 18 it's to be taken.</p> <p>19 But in the main, it doesn't alter my 20 opinion about the responsibility of Fatah, PLO 21 and Yasser Arafat for whichever group engaged in</p>	<p style="text-align: right;">Page 141</p> <p>1 else ties the Palestinian Islamic Jihad to the 2 PLO, PA or Fatah?</p> <p>3 A. Well, I would say they are tied 4 together by the common thread of their goals.</p> <p>5 Q. What is the common thread of their 6 goals?</p> <p>7 A. The common thread of their goals 8 basically is to -- if you look at the charter of 9 the PLO, it's to regain territories that they 10 believe belong to them.</p> <p>11 Q. And what is the charter of the 12 Palestinian Islamic Jihad.</p> <p>13 A. It's similar.</p> <p>14 Q. What is your basis for saying it?</p> <p>15 A. I haven't looked at it in quite some 16 time, but I would imagine this is similar.</p> <p>17 Q. But you have looked at it. (Witness pauses.)</p> <p>19 A. I cannot recall specifically, to tell 20 you the truth. I'm sure that I would have looked 21 at it.</p>

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

<p style="text-align: right;">Page 142</p> <p>1 Q. Why do you say you're sure you would 2 have looked at it?</p> <p>3 A. I looked at a lot of paper.</p> <p>4 Q. Let's go back, and if I repeat, I 5 apologize. I was inquiring about your basis for 6 the contention that the Palestinian Islamic Jihad 7 is associated with the PA, the PLO and Fatah.</p> <p>8 A. Yeah, I was just looking at the big 9 picture, and you have a variety of splinter 10 groups, some more closely associated with Fatah, 11 PLO, PA and others.</p> <p>12 Q. And is it your view that the 13 Palestinian Islamic Jihad is closely associated 14 with the PA, the PLO or Fatah?</p> <p>15 A. It's a matter of degree.</p> <p>16 Q. Okay. Well, tell me how you would 17 define the degree to which Palestinian Islamic 18 Jihad is associated with the PA, PLO and Fatah.</p> <p>19 A. I would define it based on the legal 20 culpability.</p> <p>21 Q. And what facts establish that legal</p>	<p style="text-align: right;">Page 144</p> <p>1 what impact those statements are going to have."</p> <p>2 Q. So in your view, that's the 3 solicitation that the PA has made of Palestinian 4 Islamic Jihad to commit terrorist attacks?</p> <p>5 A. At the minimum level. And then, of 6 course, you have direct links, where I would draw 7 a closer tie with the Martyr Brigade.</p> <p>8 Q. Tell me about the direct links between 9 the Palestinian Authority and Palestinian Islamic 10 Jihad.</p> <p>11 A. Well, direct links are hard to 12 ascertain because that's the very nature. That's 13 where my expertise falls into, is the framework. 14 You would expect that the government, the ruling 15 authority, the PLO, would not claim direct 16 responsibility. You would not expect to see 17 that. You would expect them to incite, to use 18 these groups to do their bidding on the one hand, 19 while on the other hand holding out the olive 20 branch of peace, and we're trying to do 21 everything we can. So you would expect that</p>
<p style="text-align: right;">Page 143</p> <p>1 culpability, in your mind?</p> <p>2 A. Whether the PLO, Fatah, aka the 3 Palestinian Authority, have solicited these 4 organizations, inspired them, directed them, 5 supported them to engage in acts of terrorism.</p> <p>6 Q. So what evidence do you have that the 7 PA has solicited Palestinian Islamic Jihad to 8 commit terrorist attacks?</p> <p>9 A. Well, as you've seen in the reports, 10 both of them, we've got numerous statements for 11 calls to Jihad to the Palestinian people, which 12 includes these terrorist organizations. That's 13 just one source.</p> <p>14 Q. What else?</p> <p>15 A. Well, you would have the Palestinian 16 Authority control of the media, where they allow 17 people to get on the media, such as the Grand 18 Motif of Jerusalem, calling for Jihad, glorifying 19 martyrdom, and that incites these groups. So you 20 can't escape responsibility as the leader of the 21 Palestinian people by saying, "Well, I don't know</p>	<p style="text-align: right;">Page 145</p> <p>1 duplicity to be evident, particularly in times of 2 violence.</p> <p>3 Q. Can you point to a single specific 4 event that, according to you, shows that the 5 Palestinian authority was soliciting Palestinian 6 Islamic Jihad to commit a terrorist attack?</p> <p>7 A. Yes.</p> <p>8 Q. Please do.</p> <p>9 A. It's in my report.</p> <p>10 Q. Identify it for me.</p> <p>11 A. I can read it for you. These would be 12 the statements that are made, they're allowed to 13 be made on the Palestinian media networks --</p> <p>14 Q. Do any of those statements reference 15 Palestinian Islamic Jihad specifically?</p> <p>16 A. They do not reference any terrorist 17 organization specifically, and that's the beauty 18 of it. That's what they do. Therefore, they can 19 have it both ways. This is what you would expect 20 to see.</p> <p>21 Q. The other incident on Page 14 is an</p>

Page 146	Page 148
<p>1 incident that -- I'll wrap up this question --</p> <p>2 cites to Footnote 6. The sentence says, "Less</p> <p>3 than" --</p> <p>4 A. I'm sorry. Let me go back to it.</p> <p>5 Page 14?</p> <p>6 Q. Page 14.</p> <p>7 A. Yes.</p> <p>8 Q. "Less than three weeks earlier,</p> <p>9 another Al-Aqsa Martyrs Brigade suicide bomber</p> <p>10 had killed 10 and injured 50 at a bar mitzvah</p> <p>11 celebration, Footnote 6."</p> <p>12 A. That's correct.</p> <p>13 Q. That's the article that we looked at</p> <p>14 earlier that is Number 250, correct?</p> <p>15 A. Right.</p> <p>16 Q. Other than that news report, is there</p> <p>17 any other source for the tie of Al-Aqsa Martyrs</p> <p>18 Brigade to that incident?</p> <p>19 A. Well, this is a Reuters report, I</p> <p>20 believe, but I'm sure that if you Googled this</p> <p>21 incident, you would have numerous mainstream</p>	<p>1 A. The caption is cut off, the one I just</p> <p>2 read, where it says, "Members of funeral service</p> <p>3 search a baby carriage for body parts at scene of</p> <p>4 suicide bombing," it appears to be in the same</p> <p>5 type and font as, "2002 Reuters/Gil Cohen Magen."</p> <p>6 MR. YALOWITZ: If you won't object, we</p> <p>7 can point the witness to the second page. I</p> <p>8 think we just have a pagination issue.</p> <p>9 MR. WISE: That's fine.</p> <p>10 Q. Yeah, look at the second page.</p> <p>11 A. Oh, okay. So there it is. That's</p> <p>12 comforting.</p> <p>13 Q. Turn back to the front page.</p> <p>14 A. Yes.</p> <p>15 Q. The header on the front page of the</p> <p>16 document says, "Israel Ministry of Foreign</p> <p>17 Affairs," correct?</p> <p>18 A. Yes.</p> <p>19 Q. What is the Israel Ministry of Foreign</p> <p>20 Affairs?</p> <p>21 A. It's the Israel Minister of Foreign</p>
Page 147	Page 149
<p>1 media newspapers that reported that same</p> <p>2 incident.</p> <p>3 Q. You believe 250 is a Reuters report?</p> <p>4 A. Well, I'm reading down here at the</p> <p>5 bottom. It says, "2002 Reuters/Cohen Magen.</p> <p>6 Members of funeral service search a baby carriage</p> <p>7 for body parts at scene of suicide bombing."</p> <p>8 So as you know -- you may not know,</p> <p>9 but many of these news reports get feeders from,</p> <p>10 you know, from different news services, and then</p> <p>11 they provide that to different newspapers who</p> <p>12 pick up the story, but the origin --</p> <p>13 Q. Look at 250 with me, the one I handed</p> <p>14 you, that's marked in front of you.</p> <p>15 A. 250, okay.</p> <p>16 Q. Is that the same document that you</p> <p>17 have in your notebook?</p> <p>18 A. It appears that your document is</p> <p>19 missing some information.</p> <p>20 Q. What information is my document</p> <p>21 missing?</p>	<p>1 Affairs.</p> <p>2 Q. What does it do?</p> <p>3 A. I assume that the Ministry does what</p> <p>4 it says it does. It conducts foreign affairs for</p> <p>5 the State of Israel.</p> <p>6 Q. Other than assuming based on its name,</p> <p>7 do you know what the Ministry of Foreign Affairs</p> <p>8 does?</p> <p>9 A. I've never worked there. I don't.</p> <p>10 No. I don't know.</p> <p>11 (Brief Recess.)</p> <p>12 BY MR. WISE:</p> <p>13 Q. So before we go back into your report,</p> <p>14 let me just ask you a couple of things. First of</p> <p>15 all, during the breaks, have you been speaking</p> <p>16 with anybody about the substance of your</p> <p>17 testimony?</p> <p>18 A. No.</p> <p>19 Q. Earlier you described something that</p> <p>20 you called the discipline of terrorism law?</p> <p>21 A. Yes.</p>

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

<p>1 Q. First of all, that's a discipline that 2 you, yourself, have created, right? 3 A. I helped create it. 4 Q. Can you describe to me the process of 5 creating it? 6 A. Well, I'll go back to the beginning. 7 Congress passed a law in the 1980s that said that 8 every special forces group had to have an 9 attorney assigned to it, and I was a new JAG 10 officer captain, and I volunteered for that 11 position, so I was assigned to the first special 12 forces group. We had never had JAG lawyers that 13 accompanied soldiers in the field before. In 14 Vietnam, we had a couple of extraordinary cases 15 where that occurred, but the new discipline 16 required that the JAG officers would accompany 17 combat forces into the field, and so I went 18 through the training and did that for a special 19 forces group out of Ft. Lewis, directed towards 20 Asia. 21 Based on that experience, because it</p>	<p>1 out in about a year and a half, based on my 2 experiences with terrorism organizations in Peru, 3 which I have a lot of experience with that. 4 So from there, I think we've already 5 covered that part of my career, in 2000 I go to 6 the law faculty of St. Mary's. After 9/11, I 7 went to the dean and proposed that we create a 8 Center to look at all the legal issues associated 9 with terrorism, and "The War on Terror." The 10 dean agreed, and we had Senator John Cornyn come 11 and cut the ribbon to our Center in 2003. 12 I coined the phrase "terrorism law," I 13 guess probably right after 9/11, and today, if 14 you Google the term "terrorism law," thousands of 15 things will pop up, all the way from the ABA 16 recognizing that as a legal discipline, to, you 17 know, institutes, organizations all over the 18 place. But it's a subset of national security 19 law. It deals with state-sponsored terrorism, 20 state-supported terrorism, substate terrorism, 21 lone wolf terrorism, looks at how these things</p>
<p>1 Page 151</p> <p>1 was so new, they recruited me to go back to the 2 JAG School to teach, and that's where I started 3 teaching operational law, which was recognized as 4 a new discipline, and part of that was dealing 5 with, not just conventional warfare, but 6 asymmetrical warfare and terrorism and those 7 types of issues because of the experiences we had 8 had in the '80s, of course, with Libya and other 9 terrorist organizations and the bombing of the 10 Twin Towers in 1993, which, of course, was later, 11 but that kind of drove the discipline. 12 I picked up an extra degree from the 13 grandfather of national security laws, John 14 Norton Moore, the University of Virginia Law 15 School. You're familiar with him. He's really 16 credited for starting this discipline, national 17 security law, at the American Bar Association. I 18 was on the ground for all of that. I got my 19 master's of law from UVA at that time. 20 When I went to the Pentagon, I got my 21 doctorate of political science, which I knocked</p>	<p>1 Page 153</p> <p>1 develop, how they're used as a tool, a policy 2 tool, political tool, an ideological tool, and so 3 that's what our Center does. 4 But it's an interdisciplinary 5 discipline that looks at the framework, the 6 creation, the behavior of governments and 7 organizations that use terrorism as a tool. 8 Q. The discipline of terrorism law itself 9 started with your institute at St. Mary's; is 10 that fair to say? 11 A. We're the only law school in the 12 country that has an institute that's devoted to 13 the study of terrorism law. That's correct. 14 Q. How many other law schools in the U.S. 15 Teach a course on terrorism law? 16 A. Well, I know -- I have, obviously, 17 relations with other law professors and law 18 schools across the country. I know that 19 University of Virginia has a national security 20 course that they teach, and part of that course 21 deals with the issue of terrorism.</p>

Page 154	Page 156
<p>1 I know that Duke in North Carolina, 2 under a fellow by the name of Silliman has an 3 institute that teaches terrorism.</p> <p>4 Most law schools do not teach courses 5 in national security or terrorism. I teach a 6 course on terrorism law and national security 7 law. So there are other law schools that do 8 that, but the majority of them do not.</p> <p>9 Q. Do you have a printed syllabus for 10 your course on terrorism law?</p> <p>11 A. Yes, I do.</p> <p>12 Q. And does that course include a section 13 on the Palestinian Authority?</p> <p>14 A. No.</p> <p>15 Q. Or Fatah?</p> <p>16 A. No.</p> <p>17 Q. Or the Second Intifada?</p> <p>18 A. No.</p> <p>19 Q. Let's go back to Page 14 of Exhibit 20 238, specifically the sentence that begins on the 21 end of 14 and then continues onto 15.</p>	<p>1 the article?</p> <p>2 A. It would be -- well, according to the 3 article? I'll have to read the article here.</p> <p>4 Q. Let me ask you this: Did you ever 5 speak with the author of this article?</p> <p>6 A. Matthew Kalman?</p> <p>7 Q. Yes.</p> <p>8 A. I don't recall.</p> <p>9 Q. Do you know who he is?</p> <p>10 A. The name sounds familiar.</p> <p>11 Q. Any recollection of speaking with him 12 about this particular article?</p> <p>13 A. No, not this article.</p> <p>14 Q. Okay. If you'll look at the first 15 paragraph leading down to the quote that's cited 16 in the report, do you see that the speaker is 17 identified, by the article, at least, as Maslama, 18 M-A-S-L-A-M-A, Thabet, T-H-A-B-E-T?</p> <p>19 A. I see that name on the USA Today 20 article.</p> <p>21 Q. Other than seeing the name in the USA</p>
Page 155	Page 157
<p>1 A. I'll look at your original document 2 here.</p> <p>3 Q. 238 is your report.</p> <p>4 A. Page 14?</p> <p>5 Q. Yes. Starts on the bottom of 14 and 6 then continues to Page 15.</p> <p>7 A. Okay.</p> <p>8 Q. It says, "Indeed, one commander in 9 Tulkarem acknowledged, 'We receive our 10 instructions from Fatah. Our commander is Yasser 11 Arafat himself.' Footnote 7." Do you see that?</p> <p>12 A. Uh-huh, yes.</p> <p>13 Q. I'm going to show you what's been 14 previously marked as Defendants' Exhibit 184 and 15 ask you if you recognize that as the document 16 cited in Footnote 7?</p> <p>17 A. Yes.</p> <p>18 Q. You see the quote that's in the report 19 in this article?</p> <p>20 A. Yes.</p> <p>21 Q. And who is the speaker, according to</p>	<p>1 Today article, do you know who Maslama Thabet is?</p> <p>2 A. I've never met him.</p> <p>3 Q. Have you ever spoken with anyone about 4 him?</p> <p>5 A. Have I spoken with anyone about him?</p> <p>6 Q. Yes.</p> <p>7 A. No.</p> <p>8 Q. Do you know whether he is, in fact, a 9 "Commander with the Al-Aqsa Martyrs Brigade"?</p> <p>10 A. I know what's in the article in 11 regards to this gentleman.</p> <p>12 Q. Other than what's in the article about 13 Maslama Thabet?</p> <p>14 A. No.</p> <p>15 Q. Do you see the paragraph, second full 16 paragraph from the end?</p> <p>17 A. From the end of the article?</p> <p>18 Q. No, from the end of the first page.</p> <p>19 A. Okay. Second full paragraph. Oh, 20 yes.</p> <p>21 Q. Paragraph starts with, "Spokesmen for</p>

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

Page 158	Page 160
<p>1 Arafat." See that?</p> <p>2 A. Yes.</p> <p>3 Q. The second sentence, do you know who</p> <p>4 Nabil Abu Rudeineh is?</p> <p>5 A. Well, the article says he's Arafat's</p> <p>6 chief spokesman.</p> <p>7 Q. Do you have any reason to believe that</p> <p>8 is not the case?</p> <p>9 A. No.</p> <p>10 Q. Other than what is reported in the</p> <p>11 article, do you have any other knowledge of Mr.</p> <p>12 Rudeineh?</p> <p>13 A. No.</p> <p>14 Q. Do you see where the article quotes</p> <p>15 Mr. Rudeineh, saying he's never heard of Thabet?</p> <p>16 A. Yes.</p> <p>17 Q. That is not included in the report you</p> <p>18 signed, correct?</p> <p>19 A. No.</p> <p>20 Q. Are you familiar with a group called</p> <p>21 Human Rights Watch?</p>	<p>1 The Shining Path. This was a Marxist terrorist</p> <p>2 organization founded by a university professor in</p> <p>3 Ayacucho that was trying to overthrow the</p> <p>4 Peruvian Government. And Human Rights Watch, in</p> <p>5 my opinion, was very disingenuous in how they</p> <p>6 covered the human rights issues in Peru in the</p> <p>7 1990s.</p> <p>8 Q. Any experiences with Human Rights</p> <p>9 Watch in relation to Israel or Palestine or --</p> <p>10 A. Personally, no.</p> <p>11 Q. -- events in the Second Intifada?</p> <p>12 A. No, sir.</p> <p>13 Q. I'm going to show you what has</p> <p>14 previously been marked as Defendants' Exhibit</p> <p>15 185. Do you recognize what that is?</p> <p>16 A. That appears to be the Human Rights</p> <p>17 Watch report.</p> <p>18 Q. Have you ever seen this document</p> <p>19 before?</p> <p>20 A. I've seen references to the document</p> <p>21 before, yes.</p>
Page 159	Page 161
<p>1 A. Oh, yes.</p> <p>2 Q. What is that?</p> <p>3 A. It's NGO.</p> <p>4 Q. Just for the record, what does NGO</p> <p>5 stand for?</p> <p>6 A. Non-Governmental Organization.</p> <p>7 Q. And what does Human Rights Watch do?</p> <p>8 A. Well, they produce opinions about the</p> <p>9 compliance of various nations in regards to human</p> <p>10 rights.</p> <p>11 Q. Do you view Human Rights Watch as a</p> <p>12 reputable organization?</p> <p>13 A. I view them as an NGO. I've had some</p> <p>14 experiences with them that would cause me to</p> <p>15 question their methodology.</p> <p>16 Q. Can you describe those experiences for</p> <p>17 me?</p> <p>18 A. Well, as I indicated, I had a great</p> <p>19 deal of experience in Peru in the 1990s</p> <p>20 associated with Sendero Luminoso, S-E-N-D-E-R-O,</p> <p>21 Luminoso, L-U-M-I-N-O-S-O, which in English is</p>	<p>1 Q. Where?</p> <p>2 A. I believe it's in the Robinson report.</p> <p>3 I'm going to have to check my notes.</p> <p>4 Q. As a result of those references, have</p> <p>5 you reviewed this report?</p> <p>6 A. I haven't read the report, no.</p> <p>7 Q. Have you read the sections that</p> <p>8 Robinson cites in his report?</p> <p>9 A. No, I didn't read all of his</p> <p>10 footnotes.</p> <p>11 Q. Turn, if you would, to -- actually,</p> <p>12 let's start with the back side of the third page,</p> <p>13 and you will see something called, "About This</p> <p>14 Report."</p> <p>15 A. The back side of the third page. I'm</p> <p>16 not finding it. Is it after the Table of</p> <p>17 Contents?</p> <p>18 Q. No, right before the Table of</p> <p>19 Contents.</p> <p>20 A. Oh, yes, I see it.</p> <p>21 Q. The first paragraph of the About This</p>

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

<p style="text-align: right;">Page 162</p> <p>1 Report section states, "This report is based on 2 field research, expert and witness interviews, 3 and examination of public documents. Field 4 research was carried out during two Human Rights 5 Watch investigative missions to Israel, the West 6 Bank, and the Gaza Strip in May-June 2002. 7 During these visits, Human Rights Watch 8 interviewed members of armed groups, victims, 9 families of perpetrators, PA officials, current 10 and former PA security officers, Israeli and 11 Palestinian analysts and security experts, 12 diplomats and other foreign officials, and 13 Palestinian activists and militants."</p> <p>14 Assuming that statement of methodology 15 is correct, is this the type of report that you 16 would rely on in forming your opinions about the 17 subject matters you have opined on in this case?</p> <p>18 A. I would consider them a secondary 19 source at best.</p> <p>20 Q. Why at best?</p> <p>21 A. As I said, I've had personal</p>	<p style="text-align: right;">Page 164</p> <p>1 specifically to the Footnote 217, which reads, 2 "Israel has made public a February 2002 memo 3 ("memo to Tirawi") from the head of the PA's 4 General Intelligence Services (GIS) in Tulkarem, 5 which refers to Maslama Thabet as 'an outcast' 6 among the al-Aqsa Brigades fighters there. (The 7 "memo to Tirawi" is analyzed in detail in Section 8 7, below.)" 9 Do you know who Tirawi is?</p> <p>10 A. No, I don't.</p> <p>11 Q. Do you know what the circumstances of 12 Israel making public this memo?</p> <p>13 A. I am not familiar with that memo.</p> <p>14 Q. Does the citation to the memo and its 15 reference to Maslama Thabet affect your reliance 16 or your evaluation of the quote in the USA Today 17 article?</p> <p>18 A. As I said, I would give more weight to 19 the USA Today article than the Human Rights Watch 20 report, just based on my personal experiences 21 with Human Rights Watch.</p>
<p style="text-align: right;">Page 163</p> <p>1 experiences with Human Rights Watch that I know 2 to be false.</p> <p>3 Q. Would you consider a source like Human 4 Rights Watch to be more, less than, or similarly 5 credible as Israeli Government reports?</p> <p>6 A. No. I'd consider the Israeli 7 Government reports to be far superior.</p> <p>8 Q. What about accounts in newspaper 9 articles?</p> <p>10 A. Superior.</p> <p>11 Q. Why?</p> <p>12 A. I view them as more fair and balanced 13 than Human Rights Watch. My opinion, Human 14 Rights Watch has an agenda.</p> <p>15 Q. And that's based on your experience 16 with them in Peru, correct?</p> <p>17 A. Based on my experience with them over 18 several years associated with the terrorist 19 activities in Peru.</p> <p>20 Q. Go with me, if you would, to Page 81 21 of this report. I'll call your attention</p>	<p style="text-align: right;">Page 165</p> <p>1 Q. Okay. So you don't know the 2 circumstances of the writing of the memo 3 referenced, correct?</p> <p>4 A. I have not seen the memo.</p> <p>5 Q. You don't know the circumstances of 6 Israel's release of the memo, correct?</p> <p>7 A. Correct.</p> <p>8 Q. You previously said that when the 9 Israeli Government makes statements, you credit 10 them because they come from the Israeli 11 Government, right?</p> <p>12 A. That's correct.</p> <p>13 Q. Do you distinguish between statements 14 made and documents released?</p> <p>15 A. No, I would give them weight, as I 16 indicated, but I don't know in this -- I haven't 17 seen the memo. I don't -- obviously Human Rights 18 Watch is interpreting this memo in a way that 19 they want to interpret the memo. I'd have to 20 read the memo so I can make up my own assessment.</p> <p>21 Q. Do you know whether this memo was</p>

Page 166	Page 168
1 cited in the Robinson report?	1 not a new theme.
2 A. I'd have to look at his report. I	2 MR. WISE: I'm going to show you --
3 seem to think it might have been. I'd have to	3 I'm going to hand you what's 251.
4 look at it again.	4 (Defendants' Deposition Exhibit Number
5 Q. But you didn't make any effort to	5 251 was marked for identification.)
6 locate this memo itself to review it	6 BY MR. WISE:
7 independently?	7 Q. Do you recognize Exhibit 251 as the
8 A. No.	8 document cited in Footnote 3?
9 Q. Page 13 of your initial report, in the	9 MR. YALOWITZ: I'm sorry, my copy only
10 paragraph that starts at the bottom and finishes	10 has what looks like one page out of --
11 on Page 14, your report cites to a piece by	11 MR. WISE: Yeah, that will be my next
12 Matthew Levitt, correct?	12 question.
13 A. The paragraph where it says, "In his	13 A. Okay. So let me -- we're looking at
14 attempt"?	14 Footnote 3?
15 Q. Yes.	15 Q. Looking at Footnote 3.
16 A. And you're talking of Footnote 3?	16 A. Okay.
17 Q. Yes.	17 Q. So my first question is this: What
18 A. Yes.	18 I've handed you as 251 is what we've received
19 Q. So in this paragraph, your report	19 from the plaintiffs' counsel related to this
20 alleges that, "Arafat began to wield Islamic	20 exhibit. Have you reviewed Mr. Levitt's entire
21 rhetoric similar to that of Hamas." Correct?	21 piece?
Page 167	Page 169
1 A. Yes, that's what it says.	1 A. I don't have it in front of me here.
2 Q. "He made Jerusalem, perhaps the lowest	2 I reviewed this back in my office.
3 common denominator among Palestinians, a focal	3 Q. You think you reviewed the entire
4 point of the violence." Correct?	4 piece?
5 A. That's what I believe.	5 A. Well, I can't recall right now, no.
6 Q. What do you mean by "lowest common	6 When I can't recall, I'm not saying no. I just
7 denominator"?	7 can't recall.
8 A. Well, it's the one issue that he felt	8 Q. If you look at the end of the first
9 would unite individuals. It's a religious issue.	9 full paragraph on the second page of the exhibit
10 As I indicated before, that's what -- when they	10 I've handed you, you see the quotation, "We are
11 incorporate these slogans and symbols, Jerusalem	11 marching, million of martyrs to Jerusalem"?
12 is a symbol, if you will, not a slogan. There	12 A. Yes.
13 are several holy places there related to Islam,	13 Q. And that is the quote that is included
14 so that's the symbol.	14 in the report you signed, right?
15 Q. Any other basis for the opinion that	15 A. That's the one in my report, yes.
16 it's the lowest common denominator among	16 Q. A conclusion in your report, based on
17 Palestinians?	17 that quotation, is that Arafat was wielding
18 A. Well, the basis would be the rhetoric	18 Islamic rhetoric similar to that of Hamas,
19 that's put out by a variety of individuals about	19 correct?
20 their attachment to Jerusalem as being something	20 A. Well, yes, that's my conclusion. It's
21 that would be associated with martyrdom. This is	21 the same they're -- he's using the symbols and

<p style="text-align: right;">Page 170</p> <p>1 the rhetoric of Jihad.</p> <p>2 Q. And are you referring to the use of 3 the word "martyr" their?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. What is your definition of the 6 word "martyr"?</p> <p>7 A. Well, a martyr is someone that dies in 8 Jihad.</p> <p>9 Q. And what is Jihad?</p> <p>10 A. In this context, it would be to engage 11 in violence, unlawful violence, of course, that's 12 what terrorism is, against other individuals. 13 They're apostate or they categorize them, of 14 course, as infidels.</p> <p>15 Q. So a martyr is one who engages in 16 unlawful violence against others, correct?</p> <p>17 A. Well, you kill yourself. I mean, 18 that's part of the ingredient. You martyr 19 yourself. You kill yourself for the cause.</p> <p>20 Q. Is there any other definition of 21 martyr that you know of that would not involve</p>	<p style="text-align: right;">Page 172</p> <p>1 you've included in your report.</p> <p>2 A. Right.</p> <p>3 Q. There's no question in your mind that 4 here, Arafat is using "martyr" to describe 5 someone involved in unlawful violence, correct?</p> <p>6 A. Yes.</p> <p>7 Q. The quotes attributed to Arafat on 8 this page of Mr. Levitt's piece are translated by 9 the Middle East Media Research Institute, 10 correct?</p> <p>11 A. Yes.</p> <p>12 Q. Have you ever heard of the acronym 13 MEMRI?</p> <p>14 A. I believe that was standing for the 15 Institute.</p> <p>16 Q. Have you heard that acronym used?</p> <p>17 A. I'm sure I have. I don't recall.</p> <p>18 Q. Do you know what MEMRI is?</p> <p>19 A. I would assume it stands for the 20 institute you just described, Middle East Media 21 Research Institute.</p>
<p style="text-align: right;">Page 171</p> <p>1 acts of violence?</p> <p>2 A. From the context of the rhetoric that 3 was employed by Arafat, I would say no, that's 4 exactly what he was intending to be the response.</p> <p>5 Q. In all of your other work, has there 6 ever been the term "martyr" used that didn't have 7 a connotation of unlawful violence?</p> <p>8 A. I suppose it can.</p> <p>9 Q. Can you give me an example?</p> <p>10 A. Well, in the English language you 11 would say that, you know, you've martyred 12 yourself by doing the dishes. It just shows that 13 you're doing something as a sacrifice or as 14 something that you want people to recognize what 15 you're doing.</p> <p>16 Q. Did Arafat ever use the term "martyr," 17 in your view, in a way that did not connote an 18 act of violence by the person called a martyr?</p> <p>19 A. I've never met Yasser Arafat. I can't 20 say never, no. I don't know.</p> <p>21 Q. Let's turn back to this instance that</p>	<p style="text-align: right;">Page 173</p> <p>1 Q. Do you know what that institute does?</p> <p>2 A. I've never visited the institute.</p> <p>3 Q. I take it you do not, yourself, speak 4 Arabic?</p> <p>5 A. No, I don't.</p> <p>6 Q. And other than what you see on this 7 page, do you have any other knowledge regarding 8 this speech by Mr. Arafat?</p> <p>9 A. I know that the speech has been quoted 10 in other articles, but no. Other than that, no.</p> <p>11 Q. The middle of this page includes the 12 sentence in the middle.</p> <p>13 A. In the middle, okay.</p> <p>14 Q. "Arafat continued: " -- you see where I 15 am?</p> <p>16 A. Yes, I sure do.</p> <p>17 Q. "Arafat continued: 'The martyr 18 Muhammad al-Dura [a twelve-year-old boy killed in 19 cross-fire between Israeli and Palestinian 20 forces] says to [the Jews] from paradise, and all 21 of our martyrs tell them: We are the nation of</p>

<p>1 heroes.'" Do you see that?</p> <p>2 A. Uh-huh.</p> <p>3 Q. First of all, the brackets were added</p> <p>4 by MEMRI, correct?</p> <p>5 A. They're added by someone.</p> <p>6 Q. You don't know who, though?</p> <p>7 A. No.</p> <p>8 Q. Based on the quotation that you see</p> <p>9 there, you'd agree with me that Arafat was</p> <p>10 referring to Muhammad al-Dura as a martyr,</p> <p>11 correct?</p> <p>12 A. Yes.</p> <p>13 Q. Who is Muhammad al-Dura?</p> <p>14 A. According to the bracket, he is a</p> <p>15 12-year-old boy killed in cross-fire and, of</p> <p>16 course, this story was reported, as I recall,</p> <p>17 years ago. He was a symbol that was used to</p> <p>18 incite other individuals, as this indicates here.</p> <p>19 Q. He was used to incite other</p> <p>20 individuals?</p> <p>21 A. My opinion, yes.</p>	<p>Page 174</p> <p>1 A. Oh, yeah.</p> <p>2 Q. Because he knew he was going to use</p> <p>3 the boy to incite acts of violence by others?</p> <p>4 A. Absolutely.</p> <p>5 Q. What's your basis for that opinion?</p> <p>6 A. The statement itself.</p> <p>7 Q. Tell me what part of the statement</p> <p>8 supports that conclusion.</p> <p>9 A. Common sense.</p> <p>10 Q. What part of common sense?</p> <p>11 A. The common sense part of common sense.</p> <p>12 Q. Describe for me what common sense part</p> <p>13 of common sense leads you to draw that opinion.</p> <p>14 A. Well, it's not just this one</p> <p>15 statement. You're looking at other statements</p> <p>16 that people associated with Arafat have made, as</p> <p>17 I've covered in my report. You're looking at</p> <p>18 other statements that Arafat has made about his</p> <p>19 desire to be a martyr, you know, to die for the</p> <p>20 cause, so this is not just one statement. You</p> <p>21 look at the entire picture, and then common sense</p>
<p>1 Q. He was a 12-year-old boy, right?</p> <p>2 A. Right.</p> <p>3 Q. Killed in cross-fire?</p> <p>4 A. Yes.</p> <p>5 Q. No indication that Muhammad al-Dura</p> <p>6 blew himself up, right?</p> <p>7 A. No.</p> <p>8 Q. Or committed an act of violence,</p> <p>9 correct?</p> <p>10 A. No.</p> <p>11 Q. And Yasser Arafat refers to him in</p> <p>12 this quote as a martyr, right?</p> <p>13 A. Correct. As I said, he was used.</p> <p>14 Q. So this is an instance, you'd agree</p> <p>15 with me, where Arafat used the term "martyr" to</p> <p>16 describe someone who was not himself committing</p> <p>17 acts of violence, right?</p> <p>18 A. He used the boy to incite others to</p> <p>19 commit acts of violence.</p> <p>20 Q. And that's why Arafat was calling him</p> <p>21 a martyr, in your opinion?</p>	<p>Page 175</p> <p>1 will tell you this is exactly what he's trying to</p> <p>2 do.</p> <p>3 Q. Which is what in relation to this</p> <p>4 12-year-old boy?</p> <p>5 A. Incite the crowd and individuals</p> <p>6 within the crowd or others to engage in</p> <p>7 martyrdom, terrorist activities.</p> <p>8 Q. That's the conclusion you draw from</p> <p>9 that sentence?</p> <p>10 A. That sentence, plus the context, plus</p> <p>11 all the other evidence that you put together.</p> <p>12 That's what Arafat would do. He would use</p> <p>13 people, use situations to his own advantage.</p> <p>14 Q. Are you suggesting that he sent this</p> <p>15 12-year-old boy out to be killed so he could then</p> <p>16 incite violence?</p> <p>17 A. This particular case? I do not know.</p> <p>18 I do know that the PA, the PLO had training camps</p> <p>19 for children, which our Congress also found as a</p> <p>20 finding of fact, teaching them to engage in</p> <p>21 violence.</p>

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

Page 178	Page 180
1 Q. What's your basis for saying that the 2 PA had these camps? 3 A. Well, we can pull up the congressional 4 resolution. 5 Q. Is there anything more than the 6 congressional resolution? 7 A. That's enough for me, but I'm sure 8 there's -- you know, obviously there's other 9 media reports. We can do the research and dig 10 that up pretty easily if we wanted to. 11 Q. Have you seen the other media reports? 12 A. Have I seen other media reports? I've 13 seen other media reports on that issue, yes. 14 Q. Did you cite them in your report? 15 A. No. I cited the best source. 16 Q. Your report describes the crowd as 17 "frenzied" at the top of Page 14, right? 18 A. Yep. 19 Q. What's the basis for that opinion? 20 A. Oh, my opinion? 21 Q. Yes.	1 I'm on Page 16 of your report. 2 A. Okay. Page 16. I'm with you. 3 Q. Page 16, you write, "Arafat personally 4 praised numerous attacks, including the 2001 5 Dolphinarium discotheque bombing in Tel Aviv, 6 which killed a large number of Israeli youths. 7 According to Arafat, the attack was a 'heroic 8 martyrdom operation'." See that quote in the 9 report? 10 A. I sure do. 11 Q. Okay. And you cite to another MEMRI 12 dispatch? 13 A. Yes. 14 Q. Have you reviewed that dispatch? 15 A. Yes. 16 MR. WISE: Mark this as 252. 17 (Defendants' Deposition Exhibit Number 18 252 was marked for identification.) 19 BY MR. WISE: 20 Q. You recognize 252 as the document 21 cited?
Page 179	Page 181
1 A. I thought you were talking about the 2 paper, so let me look at the top of Page 14. 3 Yeah. Well, I've attended many and 4 I've viewed many rallies of this sort, and these 5 crowds get very emotional. They get very 6 frenzied. 7 Q. Have you viewed any video of this 8 rally? 9 A. This particular crowd, no. 10 Q. So you have no basis to adopt the word 11 "frenzied"?" 12 A. I do have a basis. 13 Q. What's your basis? 14 A. My experience. 15 Q. But not related to this individual 16 event? 17 A. I wasn't at this event. 18 Q. And have never seen any video of it? 19 A. Not this particular event. 20 Q. On Page 16 of the report, you state 21 that Arafat, first full paragraph -- I'm sorry,	1 A. That is the one. 2 Q. And this is the MEMRI report? 3 A. It is. 4 Q. And you said that you read this, 5 correct? 6 A. I did. 7 Q. MEMRI is reporting on a German 8 television program, correct? 9 A. Yes. 10 Q. Did you view the original source, the 11 television program? 12 A. No. 13 Q. Any idea whether MEMRI reported it 14 correctly? 15 A. I assume they did. 16 Q. What's the basis for that assumption? 17 A. It fits the pattern of what Arafat 18 does. 19 Q. Did you see the letter yourself that's 20 referenced? 21 A. I see the MEMRI report. My German is

<p style="text-align: right;">Page 182</p> <p>1 not too good. I haven't seen the German TV, as I 2 said, or the letter.</p> <p>3 Q. So this is not a document that you've 4 viewed an independent translation of, correct?</p> <p>5 A. No.</p> <p>6 Q. The MEMRI report, you see a footnote 7 on the second page that says, "The PA daily 8 Al-Ayyam, reported on June 24, '01 that on June 9 23rd, 2001 Yasser Arafat's bureau in Ramallah 10 denied the claims of the German TV station 11 according to which they have a letter by Arafat 12 praising the martyrdom operation that caused the 13 death of 21 Israel youth. Arafat's bureau said 14 that the letter is a forgery." You see that in a 15 footnote?</p> <p>16 A. I see that.</p> <p>17 Q. Do you consider the footnote in 18 deciding whether or not to sign on to your 19 report?</p> <p>20 A. Yes.</p> <p>21 Q. It's not mentioned in the report, the</p>	<p style="text-align: right;">Page 184</p> <p>1 Q. So when he says things that are 2 ambiguous, you infer that he is inciting 3 violence, right?</p> <p>4 A. It depends on the context. I'd have 5 to look at the context. Give me a specific 6 example. I mean, he says a lot of things.</p> <p>7 Q. Well, let's use the last example, the 8 12-year-old boy who he called a martyr. In your 9 view, that was an incitement to violence?</p> <p>10 A. Yes.</p> <p>11 Q. And when he denies the truth of 12 things, you discredit that as untrue?</p> <p>13 A. Yes. I give it less weight. I mean, 14 I give it less weight, far less weight, because 15 that's the modus operandi of a totalitarian ruler 16 that engages in terrorism. That's what they do.</p> <p>17 Q. It's not mentioned anywhere in your 18 report that this was denied, correct?</p> <p>19 A. No, I have not -- well, no.</p> <p>20 Q. Take a look at Page 13 of your report.</p> <p>21 A. Sure.</p>
<p style="text-align: right;">Page 183</p> <p>1 denial, correct?</p> <p>2 A. No. I would expect him to deny it.</p> <p>3 Q. Why is that?</p> <p>4 A. Again, based on the discipline that 5 I've been involved in, terrorism law, that's what 6 groups, governments, organizations that engage in 7 terrorism do. They don't take responsibility 8 directly. They use people. They use 9 organizations to carry out their bidding. And 10 when they are confronted with it, they deny all 11 responsibility.</p> <p>12 Q. I thought you had told us before that 13 Arafat would often incite the public through 14 public statements calling for acts of violence?</p> <p>15 A. He would, but he would craft it in a 16 way that -- as we indicated in the last 17 discussion about his speech in Jerusalem, he 18 would craft it in a way to incite but not 19 directly tell people, "Put your suicide vest on, 20 go out and blow up things." He's not that 21 stupid.</p>	<p style="text-align: right;">Page 185</p> <p>1 Q. You claim on Page 13 -- on Page 13, 2 you cite to a media report quoting Suha Arafat, 3 correct?</p> <p>4 A. Yes, yes.</p> <p>5 Q. Okay. And that is Yasser Arafat's 6 widow?</p> <p>7 A. Yes.</p> <p>8 Q. And the report states that Yasser 9 Arafat's widow, "Admitted that Arafat had planned 10 the intifada," correct?</p> <p>11 A. Correct.</p> <p>12 Q. Citing to a Jerusalem Post article 13 from 2012, right?</p> <p>14 A. Yes.</p> <p>15 (Defendants' Deposition Exhibit Number 16 253 was marked for identification.)</p> <p>17 BY MR. WISE:</p> <p>18 Q. You recognize that as the article 19 cited in Footnote 2?</p> <p>20 A. Yes, it is.</p> <p>21 Q. The article was written in 2012,</p>

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

<p>1 correct?</p> <p>2 A. Yes.</p> <p>3 Q. And quoted an interview with Dubai</p> <p>4 Television, correct?</p> <p>5 A. Correct.</p> <p>6 Q. Again, translated by MEMRI, according</p> <p>7 to the first paragraph of the article?</p> <p>8 A. Yes.</p> <p>9 Q. Have you viewed the interview or the</p> <p>10 television broadcast?</p> <p>11 A. I have not.</p> <p>12 Q. According to the article, Suha Arafat</p> <p>13 claimed that her husband said he did not want to</p> <p>14 be seen as "abandoning the Palestinian cause and</p> <p>15 principles," correct?</p> <p>16 A. Yes.</p> <p>17 Q. Did you consider whether Suha Arafat</p> <p>18 had any motive to falsely recount what her</p> <p>19 husband said to her?</p> <p>20 A. No.</p> <p>21 Q. The article states that Ms. Arafat was</p>	<p>Page 186</p> <p>1 Q. Did you consider whether she</p> <p>2 personally had any motive in giving an untrue</p> <p>3 explanation for why she stayed in Paris during</p> <p>4 the Second Intifada?</p> <p>5 A. No.</p> <p>6 Q. The article also says that Ms. Arafat</p> <p>7 claimed that Yasser Arafat was killed by Israel,</p> <p>8 correct?</p> <p>9 A. Let me take one second here.</p> <p>10 (Witness pauses.)</p> <p>11 MR. YALOWITZ: I'm sorry. Can I have</p> <p>12 the question back?</p> <p>13 MR. WISE: Yes. The article reports</p> <p>14 that Ms. Arafat has accused Israel of killing</p> <p>15 Yasser Arafat.</p> <p>16 A. I don't see that, unless you can point</p> <p>17 it to me.</p> <p>18 Q. Do you see the section at the bottom?</p> <p>19 A. Uh-huh.</p> <p>20 Q. Describing Ms. Arafat's request?</p> <p>21 A. Yes, she requested an autopsy.</p>
<p>1 explaining why she stayed in Paris during the</p> <p>2 Second Intifada, correct?</p> <p>3 A. She says that her husband told her,</p> <p>4 "You should remain in Paris."</p> <p>5 Q. What was the issue regarding Suha</p> <p>6 Arafat's presence in Paris during the Second</p> <p>7 Intifada?</p> <p>8 A. The article doesn't describe that.</p> <p>9 Q. Aside from the article, do you know</p> <p>10 anything about the circumstances of Suha Arafat</p> <p>11 being in Paris during the Second Intifada?</p> <p>12 A. I heard reports she went there for</p> <p>13 safety.</p> <p>14 Q. What reports?</p> <p>15 A. I can't recall.</p> <p>16 Q. What was the medium of the reports?</p> <p>17 A. Newspaper media, mainstream media</p> <p>18 sources. It's a long time ago.</p> <p>19 Q. Was she subjected to criticism because</p> <p>20 of that?</p> <p>21 A. I don't recall.</p>	<p>Page 187</p> <p>1 Q. Okay. And the sentence that says,</p> <p>2 "Palestinians have accused Israel of causing</p> <p>3 Arafat's death"?</p> <p>4 A. Yes, but that's not her. That just</p> <p>5 says Palestinians.</p> <p>6 Q. Have you heard any reports that she</p> <p>7 has made that claim?</p> <p>8 A. I can't recall. It doesn't say it in</p> <p>9 the article here.</p> <p>10 Q. Do you credit the claim in the article</p> <p>11 made by Palestinians that Israel has caused</p> <p>12 Arafat's death?</p> <p>13 A. I've heard the claim by some</p> <p>14 Palestinians that perhaps he was murdered.</p> <p>15 Q. Do you find that to be a credible</p> <p>16 claim?</p> <p>17 A. I do not know.</p> <p>18 Q. Let's talk about this organization</p> <p>19 MEMRI. You said that you've never been to the</p> <p>20 institute, correct?</p> <p>21 A. No.</p>

<p style="text-align: right;">Page 190</p> <p>1 Q. Are you familiar with a person named 2 Yigal, Y-I-G-A-L, Carmon, C-A-R-M-O-N?</p> <p>3 A. Well, let me take that back. I don't 4 think I've ever been to the institute. I visited 5 a lot of ministries when I was in Israel on one 6 of my trips, introduced to a lot of people. To 7 the best of my knowledge, I haven't.</p> <p>8 Q. Do you know who Carmon is?</p> <p>9 A. What was the name?</p> <p>10 Q. Yigal, Y-I-G-A-L, Carmon, C-A-R-M-O-N.</p> <p>11 A. Again, that name sounds familiar, but 12 you'll have to forgive me. I just, I can't place 13 it. If you'll give me a clue.</p> <p>14 Q. Are you aware that MEMRI has been 15 accused of anti-Arab bias?</p> <p>16 A. It would surprise me if they hadn't.</p> <p>17 Q. Why is that?</p> <p>18 A. It's common knowledge. I mean, the 19 Israelis and the Israeli Government is the most 20 malignated Government on the face of the planet 21 next to our Government by a variety of</p>	<p style="text-align: right;">Page 192</p> <p>1 Looking at this document, do you recall ever 2 having seen this debate between Carmon and 3 Whitaker?</p> <p>4 A. I have not seen this document before.</p> <p>5 Q. Let me ask you to turn to the second 6 page.</p> <p>7 A. Okay.</p> <p>8 Q. Which is a statement under the heading 9 Brian Whitaker, and ask you to turn to the third 10 paragraph, where Whitaker says, "My problem with 11 Memri is that it poses as a research institute 12 when it's basically a propaganda operation. As 13 with all propaganda, that involves a certain 14 amount of dishonesty and deception. The items 15 you translate are chosen largely to suit your 16 political agenda. They are unrepresentative and 17 give an unfair picture of the Arab media as a 18 whole."</p> <p>19 MR. YALOWITZ: I'm sorry, bear with me 20 for a minute. I just want to look at the 21 document.</p>
<p style="text-align: right;">Page 191</p> <p>1 organizations and nations around the world.</p> <p>2 Q. Do you believe that MEMRI is an 3 institution of the Israeli Government?</p> <p>4 A. No.</p> <p>5 Q. Do you know Brian Whitaker? Have you 6 ever heard that name?</p> <p>7 A. I don't recall.</p> <p>8 Q. Are you familiar with a Guardian 9 newspaper?</p> <p>10 A. Oh, yes.</p> <p>11 Q. Guardian is a UK newspaper?</p> <p>12 A. Yes.</p> <p>13 Q. Do you believe that to be a reliable 14 source?</p> <p>15 A. It's considered to be a mainstream 16 media source.</p> <p>17 MR. WISE: Mark this.</p> <p>18 (Defendants' Deposition Exhibit Number 19 254 was marked for identification.)</p> <p>20 BY MR. WISE:</p> <p>21 Q. This is Defendants' Exhibit 254.</p>	<p style="text-align: right;">Page 193</p> <p>1 MR. WISE: Uh-huh.</p> <p>2 Q. Do you see that?</p> <p>3 (Witness Reviews Document.)</p> <p>4 Q. Have you had a chance to read it, 5 Professor?</p> <p>6 A. Yes, it's pretty long.</p> <p>7 Q. You weren't familiar with this 8 discussion between Whitaker and Carmon?</p> <p>9 A. Not this particular discussion, no.</p> <p>10 Q. Did the concerns about MEMRI's 11 credibility raised by Whitaker cause you any 12 concern about relying on MEMRI as a source for 13 your report?</p> <p>14 A. Does this report cause me any 15 concerns?</p> <p>16 Q. Yes.</p> <p>17 A. Oh, I would have to look at the report 18 and really get more information about who these 19 individuals are, but it appears that the debate, 20 some of the points that were brought out on the 21 translation issue, on that one instance there's</p>

<p style="text-align: right;">Page 194</p> <p>1 no organization that's going to be perfect in 2 everything they do, but, I don't know, I still 3 trust -- you know, I trust that this organization 4 could not exist if they had more than a five 5 percent error in what they were translating 6 because it would become extremely common 7 knowledge that they were not reputable, more than 8 just a debate between two people that they had 9 some issues. I think the issue would have come 10 out in a larger avenue than this if it was true.</p> <p>11 Q. Okay. Take a look at 253, which is 12 there.</p> <p>13 (Defendants' Deposition Exhibit Number 14 255 was marked for identification.)</p> <p>15 THE REPORTER: 255 counsel.</p> <p>16 MR. WISE: I'm sorry, 255. Thank you.</p> <p>17 Q. And I'm going to point your attention 18 specifically to the last paragraph on the first 19 page, which quotes a gentleman named Vincent 20 Cannistraro, C-A-N-N-I-S-T-R-A-R-O. Do you know 21 who that is?</p>	<p style="text-align: right;">Page 196</p> <p>1 A. That's his opinion, yes.</p> <p>2 Q. Does that opinion cause you to 3 reevaluate your reliance on MEMRI as support for 4 the positions you've taken in your report?</p> <p>5 A. In and of itself, no.</p> <p>6 Q. You, on Page 18 of your report, start 7 a section titled Americans Killed During Second 8 Intifada. Do you see that section?</p> <p>9 A. Yes.</p> <p>10 Q. And at the start, it states, 11 "According to the Israeli Security Agency (Shin 12 Bet or Shabak) between September 29, 2000 and 13 2004, at least 1,028 innocent people died as a 14 result of Palestinian terror attacks." Do you 15 see that?</p> <p>16 A. Yes.</p> <p>17 Q. What is Shabak?</p> <p>18 A. Well, it's an agency within the 19 Israeli Government that is charged with, among 20 other things, special operations.</p> <p>21 Q. And what is Shin Bet?</p>
<p style="text-align: right;">Page 195</p> <p>1 A. I'm sorry, which page are you on? I'm 2 sorry.</p> <p>3 Q. End of Page 1, beginning of Page 2.</p> <p>4 A. Okay. I certainly know who Thomas 5 Friedman and Richard Cohen are, but let's see. 6 (Witness Reviews Document.) Okay. 7 I've read it.</p> <p>8 Q. Do you know who Vincent Cannistraro 9 is?</p> <p>10 A. I've heard the name.</p> <p>11 Q. This article reports that he is the 12 former head of CIA's counterintelligence unit. 13 Do you have any reason to believe that is not 14 accurate?</p> <p>15 A. I think that's correct.</p> <p>16 Q. And his quote, according to this 17 article, is they -- about MEMRI is, "They are 18 selective and act as propagandists for their 19 political point of view, which is the 20 extreme-right of Likud. They simply don't 21 present the whole picture." Correct?</p>	<p style="text-align: right;">Page 197</p> <p>1 A. That's a synonym for Shabak.</p> <p>2 Q. Okay. Your citation is to a Shabak 3 report, correct?</p> <p>4 A. My citation is Footnote 20, which is 5 the Israeli Security Agency.</p> <p>6 (Defendants' Deposition Exhibit Number 7 256 was marked for identification.)</p> <p>8 BY MR. WISE:</p> <p>9 Q. Do you recognize 256 as the document 10 cited in Footnote 20?</p> <p>11 A. That's the one.</p> <p>12 Q. Can you tell me, based on the document 13 in Footnote 20, how you verified the number 1,028 14 innocent people?</p> <p>15 A. There have been several calculations, 16 as you know, from different sources about the 17 number of individuals that have been murdered.</p> <p>18 This is just one source.</p> <p>19 Q. This is the document that's cited, 20 though, correct?</p> <p>21 A. This is the one that I cited, yes.</p>

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

Page 198	Page 200
<p>1 Q. So can you tell me how you got to the 2 number that's in your report based on the 3 document you're holding in front of you?</p> <p>4 A. This is not a quotation, it's a cite, 5 so I don't have any parentheses around the 6 figures.</p> <p>7 Q. Do you have any idea where the number 8 1,028 came from?</p> <p>9 A. The document lists 1,178, but that's 10 the end of 2009. Well, let's see. Let me look 11 at the charts.</p> <p>12 Q. Professor, as you sit here today, do 13 you have any idea how that number was derived?</p> <p>14 A. Oh, I'd have to look at the chart 15 again. Again, there's a lot of charts, facts and 16 figures. I know that Congress has reached a 17 slightly different number in their findings. So 18 if we're trying to determine the exact number, 19 this is one of many reports. It's an 20 approximate. You know, the exact body count 21 here, let me see if I can find it from the</p>	<p>1 A. Yes.</p> <p>2 Q. The word "innocent," do you see that 3 in the report that's cited at Footnote 20?</p> <p>4 A. That's an amplifier that I added. You 5 know, when you use violence and you have no 6 lawful right to use violence, then the victims 7 obviously are innocent people there. You have no 8 right to kill them.</p> <p>9 Q. You then list in bullet form a number 10 of individual people that were killed, correct?</p> <p>11 A. Yes. Do you want me to add this up 12 again, or are we gone from that?</p> <p>13 Q. No, we're gone from that.</p> <p>14 A. Okay. I might have got it right, but 15 that's how I got it.</p> <p>16 MR. YALOWITZ: Before we leave the 17 topic of a thousand and 28, I'll just represent 18 that I did the math and I got a thousand and 28, 19 so I'm comfortable that the numbers on the chart 20 add up. We can stipulate to that.</p> <p>21 Q. You didn't do the addition when you</p>
Page 199	Page 201
<p>1 charts.</p> <p>2 (Witness Reviews Document.)</p> <p>3 A. If you add the figures in the chart on 4 the first page between the period of 2000 and 5 2004, unless my math is off, I get 1,018, and not 6 1,028, so apparently I'm off by 10.</p> <p>7 Q. When you say you're off by 10, you 8 didn't calculate that number, did you?</p> <p>9 A. I just did calculate it, yes.</p> <p>10 Q. When the report was written that you 11 signed, you did not pen that number, right?</p> <p>12 A. No, I didn't do the math. I didn't 13 add them all up. I looked at the chart and I 14 assumed that the math was correct.</p> <p>15 Let me add it one more time. Maybe 16 I've got it wrong right now. I'm adding the 17 figures on the chart, but no, I didn't 18 double-check the math.</p> <p>19 Q. Let me ask you this: You say in your 20 report that this is 1,028 innocent people, 21 correct?</p>	<p>1 signed your report?</p> <p>2 A. I looked at the chart. I didn't add 3 up every figure, no.</p> <p>4 Q. So you just gave me a description of 5 why you added the word "innocent," right?</p> <p>6 A. Yes.</p> <p>7 Q. And then you list a number of 8 individuals by bullet point, correct?</p> <p>9 A. In the report, yes.</p> <p>10 Q. The second person is Rabbi Benjamin 11 Kahane, correct? K-A-H-A-N-E.</p> <p>12 A. And his wife, yes.</p> <p>13 Q. Who is Benjamin Kahane?</p> <p>14 A. I don't understand the question.</p> <p>15 Q. Do you know who Benjamin Kahane is?</p> <p>16 A. I've never met him, no.</p> <p>17 Q. Okay. Do you know that he was the 18 leader of a group called Kahane Chai, C-H-A-I?</p> <p>19 A. If it's the same one, that's a very 20 common name. That may be the same person. I 21 don't know. I've heard of the group.</p>

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

<p style="text-align: right;">Page 202</p> <p>1 Q. You know that Kahane Chai is a 2 designated foreign terrorist organization, 3 correct?</p> <p>4 A. I do not know that without looking at 5 the State Department list.</p> <p>6 Q. Take a look at Exhibit 248.</p> <p>7 A. I see it listed on the front page of 8 Chapter 6.</p> <p>9 Q. This is the report that you used and 10 cited as a designation of the Al-Aqsa Martyrs 11 Brigade, correct?</p> <p>12 A. I believe I used this report. I know 13 I used several reports. I have to check the 14 dates again, but I'll assume that's correct.</p> <p>15 Q. You'd agree with me that Kahane Chai 16 is listed on this report --</p> <p>17 A. Yes.</p> <p>18 Q. -- of designated foreign terrorist 19 organizations, correct?</p> <p>20 A. Yes.</p> <p>21 Q. Based on your definition of</p>	<p style="text-align: right;">Page 204</p> <p>1 anticipatory self-defense.</p> <p>2 Q. What is it called when an Israeli 3 who's on the designated foreign terrorist 4 organization list is killed?</p> <p>5 A. Well, it depends on who kills him.</p> <p>6 Q. Let's assume it was a Palestinian that 7 killed him.</p> <p>8 A. The Palestinians do not have the right 9 to engage in violence. They are not acting in 10 accordance with Article 51 of the UN Charter. 11 They can use other means.</p> <p>12 In other words, they're not -- they 13 would use the process of notifying the 14 appropriate country where that person's located, 15 ask them to arrest that person, but they have no 16 right to violate the sovereignty of another 17 nature and to engage in violence against an 18 individual.</p> <p>19 Q. Page 20 of your report, you state, "It 20 was (and remains) common knowledge that tens of 21 thousands of Israeli citizens are dual nationals</p>
<p style="text-align: right;">Page 203</p> <p>1 "innocent," would you still include that name in 2 your list of innocents killed during the Second 3 Intifada?</p> <p>4 A. Yes. It's not the -- it's not the 5 guilt of the victim. It's the justification of 6 the one that uses force.</p> <p>7 Q. If Israel killed a Hamas terrorist, 8 how would you describe that?</p> <p>9 A. Well, I would describe it as a 10 justified use of self-defense.</p> <p>11 Q. Because the Hamas terrorist was 12 designated as a terrorist?</p> <p>13 A. Well, not just because they're 14 designated as a terrorist, but, you know, you 15 have to -- in the targeted consideration, you've 16 got to evaluate who the person is because the 17 label "terrorist" can be used quite widely. Is 18 that person engaging in unlawful violence, 19 conspiring to engage in it, soliciting to engage 20 in it, and, therefore, nations have the right to 21 respond in self-defense? It's called</p>	<p style="text-align: right;">Page 205</p> <p>1 who hold US citizenship (there are approximately 2 300,000 today)."</p> <p>3 A. I see that sentence, yes.</p> <p>4 Q. And you cite to a 2012 USA Today 5 article, correct?</p> <p>6 A. Yes.</p> <p>7 Q. Why did you choose to use a 2012 8 article regarding population when you're writing 9 a report about 2000 to 2004?</p> <p>10 A. Well, it's -- again, it's common 11 knowledge that there are individuals that do 12 that. I suppose that that report was directly on 13 point for the issue, and, therefore, I chose 14 that, although obviously you could choose many, 15 many reports that have talked about that issue. 16 I assume a quick Lexis search or a Google search 17 would pop up lots of reports. Why I used this 18 report, I don't know.</p> <p>19 Q. You didn't choose it, right?</p> <p>20 A. I chose this report. This is my work.</p> <p>21 Q. The document that was sent to you in</p>

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

Page 206	Page 208
1 draft, did it have that footnote in it?	1 common knowledge. That's what the State
2 A. I believe it did. I believe it did.	2 Department does, based on my knowledge of working
3 Q. And explain to me how a 2012 USA Today	3 with the State Department over the years. I
4 article establishes what was common knowledge to	4 mean, they send out cables. They communicate
5 the PA during the Second Intifada.	5 with their Embassies and with their counterparts,
6 A. I wouldn't even need a footnote for it	6 and they put these warnings out on a regular
7 to be common knowledge. It's common knowledge	7 basis.
8 that Jerusalem is a center of tourism, that	8 Q. Do you have any specific knowledge
9 thousands of Americans visit that site year	9 that these travel warnings you cite in your
10 round.	10 report were, in fact, communicated to the
11 Q. Common knowledge to who, Professor?	11 Palestinian Authority?
12 A. Anybody.	12 A. I couldn't tell you exactly who it
13 Q. Anybody?	13 went to, no.
14 A. Any knowledgeable person that reads	14 MR. WISE: Want to break for lunch?
15 any type of language, that knows anything about	15 MR. YALOWITZ: Whenever you're ready.
16 Jerusalem, that knows anything about Israel,	16 MR. WISE: Why don't we break until
17 knows that one of their major sources of income	17 1:00.
18 is tourism, and many Jews in Israel have direct	18 (Luncheon recess taken at 12:20 p.m.)
19 connections with the United States. If it's not	19
20 common knowledge to someone, I would question	20
21 what would be common knowledge to them.	21
Page 207	Page 209
1 Q. And you believe it's common knowledge	1 A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N
2 to those who perpetrated the various attacks at	2 (1:08 p.m.)
3 issue in this case?	3 BY MR. WISE:
4 A. Has to be.	4 Q. So, Professor, let me just start with
5 Q. Why does it have to be?	5 the same question I asked you before: Did you
6 A. They live there. I mean if I know	6 speak about the substance of your testimony with
7 that and I don't live there, certainly a fortiori	7 anyone during the break?
8 they're going to know that since they live there.	8 A. Absolutely not.
9 Q. Okay. You also cite to a number of	9 Q. Let me turn your attention to Page 22
10 State Department travel warnings that you say	10 of the March 2013 report.
11 were, "Obviously issued to Americans but they	11 A. Okay. I've got to find your copy now
12 were conveyed via State Department channels each	12 because I was working off my copy. Page 13?
13 time to the Palestinian Authority," correct?	13 Q. No, Page --
14 A. Yes. The PA certainly had knowledge	14 A. I'm sorry. 22, you said.
15 that Americans were in danger. Americans were in	15 Q. -- 22, right.
16 Israel.	16 A. Okay.
17 Q. What's your basis for stating that the	17 Q. This is the beginning of the section
18 travel warnings were conveyed via State	18 that describes a number of actions by the U.S.
19 Department channels each time to the Palestinian	19 Congress, right?
20 Authority?	20 A. Yes.
21 A. Habit. I mean that's pretty much	21 Q. You start with the statement that

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

Page 210	Page 212
1 Congress, "Made it clear that it was concerned 2 about the role the PA played in the violence, and 3 consistently called upon the PA to halt the 4 intifada immediately. Their concern was 5 primarily focused on ending the violence, without 6 specific regard for potential American 7 casualties." Correct?	1 Q. And the other mention was at Page 3, 2 Subparagraph 4? 3 A. Yes. 4 Q. There was no finding in this bill that 5 the PA had committed acts on U.S. nationals, 6 correct? 7 A. No, there's no findings specifically 8 identifying the PA.
8 A. Yes. 9 Q. Okay. And the first example is House 10 Resolution 5500, right? 11 A. Yes.	9 Q. Okay. The last paragraph of Page 22 10 of your report references House Concurrent 11 Resolution 426, right? 12 A. Yes.
12 (Defendants' Deposition Exhibit Number 13 257 was marked for identification.) 14 BY MR. WISE: 15 Q. For starters, this is a bill -- you 16 see 257, correct? 17 A. Correct. 18 Q. And this is H.R. 5500? 19 A. Yes. 20 Q. This is a bill that was introduced in 21 the House of Representatives by three members,	13 Q. You understand that a concurrent 14 resolution is not legislation, right? 15 A. That's correct. 16 Q. It is just a statement of Congress? 17 A. Yes. It's a resolution. 18 MR. WISE: Mark this. 19 (Defendants' Deposition Exhibit Number 20 258 was marked for identification.) 21 BY MR. WISE:
Page 211	Page 213
1 right? 2 A. Yes. 3 Q. And it was referred to the Committee 4 on the Judiciary? 5 A. Yes. 6 Q. And the bill was never voted on, 7 correct? 8 A. As far as I know, no. 9 Q. This Bill 5500, you'd agree with me, 10 only refers to the Palestinian Authority in two 11 places? 12 A. I do not have my copy where I've 13 marked it up, so I'm going to have to -- 14 MR. YALOWITZ: Just take your time. 15 (Witness reviews document.) 16 A. That is correct. 17 Q. One was a call for the stationing of 18 U.S. personnel within Palestinian Authority 19 territory to administer the Act, correct? 20 A. Yes. That would be on Page 4, Bow 21 Legs 7.	1 Q. So Exhibit 258 is House Concurrent 2 Resolution 426, correct? 3 A. Yes. 4 Q. And this concurrent resolution 5 includes language cited in your report 6 condemning, "The Palestinian leadership for 7 encouraging the violence and doing so little for 8 so long to stop it, resulting in the senseless 9 loss of life." 10 A. Yes. 11 Q. What fact finding did Congress do 12 before passing this concurrent resolution? 13 A. I have no personal knowledge of what 14 the mechanics were that produced the resolution, 15 but I do know that the resolution was passed, I 16 have it in my other report, by an overwhelming 17 majority, bipartisan, I mean overwhelming. So 18 the findings were not something that was done by 19 few members of Congress. 20 Q. But you don't know what the process 21 was that led to the things set forth in the

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

Page 214	Page 216
1 whereas clauses, correct?	1 A. Yes, I do.
2 A. I know what the general process is in	2 Q. -- excuse me, House Resolution 5522?
3 Congress. When they gather facts, they turn to	3 A. Yes.
4 several organizations such as the Congressional	4 Q. This included no factual findings?
5 Research Service to provide information, facts to	5 A. There are no factual findings here.
6 them. They have staffs that provide information	6 There's conclusions, so we must assume they had
7 to them.	7 facts to make the conclusions.
8 So just on the basis of what I do now,	8 Q. But you have no knowledge of what
9 how the process works in general, I would assume	9 facts they considered?
10 that that process was utilized in this case	10 A. No, sir.
11 because these are very serious matters, and	11 Q. This resolution was never passed,
12 Congress would take them very seriously and, I	12 correct?
13 would assume, do their homework.	13 A. As far as I know, that's correct.
14 Q. That's simply an assumption, right?	14 Q. And you know that financial assistance
15 A. It's an assumption based on my	15 to the Palestinian Authority was not cut as a
16 knowledge of how Congress operates, yes.	16 result of this bill, correct?
17 Q. And you have no knowledge that that	17 A. As far as I know, that's correct.
18 occurred with regard to this resolution?	18 Q. You then cite to House Resolution
19 A. I do not.	19 1087, correct?
20 Q. Have you talked with any members of	20 A. Yes, I did.
21 Congress who wrote for this concurrent resolution	21 Q. Which is simply a reintroduction of
Page 215	Page 217
1 about 426?	1 5522 in the next Congress, right?
2 A. No. No.	2 A. I believe so.
3 Q. The next cite to House Resolution	3 Q. That also never passed?
4 5522, on Page 23, correct?	4 A. Not to my knowledge.
5 A. Yes.	5 Q. Footnote 33 refers to, "A group of 87
6 Q. This was a bill to prohibit U.S.	6 senators and 209 representatives called on
7 Assistance for the Palestinian Authority and for	7 President Bush to not invite Yasser Arafat to the
8 programs, projects and activities in the West	8 White House until the intifada ceased," correct?
9 Bank and Gaza?	9 A. Correct.
10 A. It's a resolution, yes.	10 Q. Your citation for that is to an
11 Q. The bill included no factual findings	11 article in JTA, correct?
12 whatsoever, right?	12 A. Yes.
13 A. I would have to look at the	13 MR. WISE: Mark this.
14 resolution. I have it in the document you took	14 (Defendants' Deposition Exhibit Number
15 to get Xeroxed.	15 260 was marked for identification.)
16 MR. WISE: May I have this marked,	16 BY MR. WISE:
17 please.	17 Q. 260 is the article you cited in the
18 (Defendants' Deposition Exhibit Number	18 report?
19 259 was marked for identification.)	19 A. Yes.
20 BY MR. WISE:	20 Q. JTA, under its symbol, is called the
21 Q. You recognize that as Bill --	21 Global News Service of the Jewish People,

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

	Page 218	Page 220
1 correct?		1 Q. Which is, again, identical to House
2 A. That's correct.		2 Resolution 5500, which you had previously cited,
3 Q. Do you know who publishes JTA?		3 correct?
4 A. No, I do not.		4 A. I have to check and see if it's
5 Q. You said the article is an example of		identical or not. 5522?
6 congressional concern regarding American		6 Q. 5500.
7 casualties in the Intifada, correct?		7 A. 5500. The short title is different.
8 A. Yes.		8 The findings are the same. The rest of the
9 Q. Do you see any indication in this news		9 document seems to be the same except for Section
10 report of congressional concerns regarding		10 4, where the fiscal years are different.
11 American casualties in the Intifada?		11 Everything else appears to be the same.
12 A. I think it's implicit in the report.		12 Q. It's fair to say that this is the same
13 Q. That was a conclusion you've inferred?		13 bill introduced in the Senate, correct?
14 A. Yes.		14 A. Same bill, different year.
15 Q. The last sentence in the article		15 Q. This bill was referred to committee
16 states that, "Secretary of State Colin Powell met		16 and never voted out of committee, correct?
17 with Arafat during his tour of the Middle East in		17 A. Yes, that's correct.
18 February, and both Bush and Powell have spoken to		18 Q. Look with me, if you will, at 24.
19 him on the telephone." Correct?		19 A. Page 24?
20 A. That's what it says.		20 Q. Page 24, the first full paragraph.
21 Q. Do you take that to mean that the		21 A. Okay.
	Page 219	Page 221
1 White House did not agree with the strategy of		1 Q. You say, "In the months that followed,
2 isolating Arafat as proposed by the Congress men		2 Congress continued to pass legislation that
3 and women?		3 condemned the Palestinian Authority," cite
4 A. No, I took that to mean that, in a		4 Footnote 37?
5 common sense reading, that obviously the United		5 A. Yes.
6 States has been working for a long time to		6 Q. And again, 37 cites to House
7 achieve peace in the Middle East, and I took that		7 Concurrent Resolution 202, correct?
8 to mean that they were attempting to continue		8 A. That's correct.
9 with that policy.		9 Q. And we've agreed that a House
10 Q. You then cite Senate Bill 1377 in		10 concurrent resolution is not legislation?
11 Footnote 34, correct?		11 A. No. But it does reflect the opinion
12 A. Yes, I believe I have that in my other		12 of Congress.
13 report as well, more fully cited.		13 Q. But the representation in the first
14 Q. Okay.		14 sentence that this was "legislation" is
15 MR. WISE: Can you mark that as 261.		15 inaccurate, correct?
16 (Defendants' Deposition Exhibit Number		16 A. Well, I'm using the term "legislation"
17 261 was marked for identification.)		17 in the sense that it's a congressional
18 BY MR. WISE:		18 resolution, but I probably could have used a
19 Q. 261 in front of you is Senate Bill		19 better word. But it falls under the main rubric.
20 1377, correct?		20 Q. And for all of these congressional
21 A. Yes.		21 actions that you've cited, your answer about --

<p style="text-align: right;">Page 222</p> <p>1 strike that. Sorry.</p> <p>2 For all of the pieces of congressional 3 action that you cite, you don't have any specific 4 knowledge of what process Congress undertook in 5 terms of fact finding, right?</p> <p>6 A. I do have knowledge about how Congress 7 tasks individuals to gather information for them, 8 to gather facts and make decisions.</p> <p>9 Q. But that knowledge is in a general 10 sense?</p> <p>11 A. In a general sense. I, myself, have 12 been asked to produce information for Congress so 13 they could use that information. About these 14 particular ones, I don't have any personal 15 knowledge on the specifics of how the information 16 was gathered.</p> <p>17 Q. And none of the times that Congress 18 has requested information from you, were those 19 requests related to any of the bills, resolutions 20 or concurrent resolutions you cite in either the 21 first report or in your rebuttal report?</p>	<p style="text-align: right;">Page 224</p> <p>1 basic contention was -- if I could get the 2 Robinson report, I can read it -- but there was 3 no culpability on the part of the PLO, Yasser 4 Arafat or the PA associated with the terrorist 5 attacks.</p> <p>6 Q. Throughout your rebuttal report, you 7 don't cite to specific parts of the Robinson 8 report at all, correct?</p> <p>9 A. No.</p> <p>10 Q. In fact, the name Robinson doesn't 11 appear again after your title, right?</p> <p>12 A. No.</p> <p>13 Q. Is the spelling of your name correct 14 in the name line?</p> <p>15 A. I hope it is. A-D-D-I-C-O-T-T. Yes.</p> <p>16 Q. First name?</p> <p>17 A. Oops, that should be R-E-Y. I typed 18 it myself also.</p> <p>19 Q. Let's start on Page 1.</p> <p>20 A. Okay.</p> <p>21 Q. You write on Page 1, in the last</p>
<p style="text-align: right;">Page 223</p> <p>1 A. That's correct.</p> <p>2 Q. Let's turn to the rebuttal report. 3 (Defendants' Deposition Exhibit Number 4 262 was marked for identification.)</p> <p>5 BY MR. WISE:</p> <p>6 Q. 262 is your rebuttal report, correct?</p> <p>7 A. That is correct.</p> <p>8 Q. And what portions of this report did 9 you personally write?</p> <p>10 A. I'm the author for the entire report.</p> <p>11 Q. And by author, does that mean that you 12 wrote every word that's in here?</p> <p>13 A. Yes.</p> <p>14 Q. You state in the third line that it is 15 a, "Rebuttal to Robinson Report," correct?</p> <p>16 A. Yes, that's correct.</p> <p>17 Q. What specific evidence from the 18 Robinson report was your rebuttal intended to 19 contradict or rebut?</p> <p>20 A. Robinson had a lot of themes in his 21 report, a lot of historical background, but his</p>	<p style="text-align: right;">Page 225</p> <p>1 sentence, and this is about Yasser Arafat, "While 2 portraying himself to the civilized world as a 3 beacon of 'peace' and denouncing 'terrorism', the 4 objective reality is that Yasser Arafat worked 5 tirelessly to promote and encourage brutal acts 6 of murder by means of terrorism in order to 7 achieve personal and political goals," and you 8 cite to a TIME Magazine article from 2011, 9 correct?</p> <p>10 A. Yes. That's meant to be a general 11 cite. There's no quotations there, and obviously 12 I could -- you know, what I've written in this 13 report, I'm not giving a full citation of all the 14 cites that I could produce, but that's my 15 conclusion.</p> <p>16 (Defendants' Deposition Exhibit Number 17 263 was marked for identification.)</p> <p>18 BY MR. WISE:</p> <p>19 Q. This is the TIME article that you were 20 referencing?</p> <p>21 A. Well, this doesn't appear to be the</p>

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

<p style="text-align: right;">Page 226</p> <p>1 full TIME article.</p> <p>2 Q. How long was the full article?</p> <p>3 A. I'd have to refer to my notes. Again,</p> <p>4 the footnote there, this introduction is a</p> <p>5 summary of my opinion. I simply threw that</p> <p>6 footnote in to buttress that point, but it's</p> <p>7 maybe in -- no, let's see here.</p> <p>8 (Witness Reviews Document.)</p> <p>9 A. Well, I mean, that just kind of stands</p> <p>10 for the proposition where we've got the quote</p> <p>11 here, "An unrepentant terrorist with a long</p> <p>12 legacy of promoting violence," I'm really saying</p> <p>13 it in a different way.</p> <p>14 Q. The TIME article that you were citing</p> <p>15 didn't use the words "Objective reality is that</p> <p>16 Arafat worked tirelessly to promote and encourage</p> <p>17 brutal acts of murder," right?</p> <p>18 A. No, they didn't use that language. If</p> <p>19 they would have, I would have quoted it as my</p> <p>20 language.</p> <p>21 Q. But by dropping a footnote to this</p>	<p style="text-align: right;">Page 228</p> <p>1 2. Some of them are, "But see," which stands for</p> <p>2 a contradictory point. I don't think I have any</p> <p>3 "but sees" in this one. Some have, "See also."</p> <p>4 Some have, "Supra, infra." It depends on the</p> <p>5 context.</p> <p>6 Q. Okay. But when you don't write</p> <p>7 something like, "See generally," or, "But see,"</p> <p>8 when you just cite to a document, as the reader,</p> <p>9 what is the reader to take from a citation to</p> <p>10 that source document?</p> <p>11 A. Well, the footnote should amplify</p> <p>12 something in the sentence, and this footnote does</p> <p>13 amplify something in this particular sentence.</p> <p>14 Q. And just point to me exactly what you</p> <p>15 believe it amplifies.</p> <p>16 A. Well, it amplifies both sides of this</p> <p>17 coin, while portraying himself to the civilized</p> <p>18 world as a beacon of peace, and those are the</p> <p>19 people that, you know, buy into that propaganda</p> <p>20 that Arafat puts out, and then the other hand is</p> <p>21 my belief, based on my professional opinion, that</p>
<p style="text-align: right;">Page 227</p> <p>1 article, all you were suggesting was that there</p> <p>2 was an article that related to the sentence?</p> <p>3 A. Well, the article talks about the</p> <p>4 duplicity of the fact that you're a Nobel Peace</p> <p>5 Prize winner and yet, on the other hand, you also</p> <p>6 have -- you're an unrepentant terrorist with a</p> <p>7 long legacy of promoting violence, so that's my</p> <p>8 point.</p> <p>9 Q. Does the TIME article say that Arafat</p> <p>10 was an unrepentant terrorist with a long legacy</p> <p>11 of promoting violence?</p> <p>12 A. Well, it says his critics condemn him</p> <p>13 as being that, so they're giving both sides of</p> <p>14 the story. And I'm choosing to amplify that</p> <p>15 particular side of the story.</p> <p>16 Q. So as a general rule, when you cite to</p> <p>17 a document in your rebuttal report, what should</p> <p>18 we take that citation to mean?</p> <p>19 A. Depends on the citation. We'd have to</p> <p>20 go through each one of them. Some of them are</p> <p>21 meant as a, "See generally," as Footnote Number</p>	<p style="text-align: right;">Page 229</p> <p>1 the objective reality is quite the opposite.</p> <p>2 Q. When you say that you think there's</p> <p>3 more to that article, are you saying you think</p> <p>4 there's more about Yasser Arafat in the article?</p> <p>5 A. I don't have my original documents in</p> <p>6 front of me, so the document you produced, there</p> <p>7 are many, many documents that I go through on</p> <p>8 writing topics over the course of a week, so I</p> <p>9 would have to refer to my own notes.</p> <p>10 Q. Let's talk about the second page.</p> <p>11 A. Okay.</p> <p>12 Q. And specifically I'm interested in the</p> <p>13 quote at the very top, where you cite Mr. Arafat</p> <p>14 as saying, "Struggle, struggle, struggle,</p> <p>15 struggle. Combat, combat, combat, combat.</p> <p>16 Jihad, jihad, jihad, jihad."</p> <p>17 First of all, have you reviewed the</p> <p>18 video clip that is cited in the footnote?</p> <p>19 A. No.</p> <p>20 Q. Do you know what Arabic word Arafat</p> <p>21 used in this quote?</p>

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

<p style="text-align: right;">Page 230</p> <p>1 A. No, I don't speak Arabic.</p> <p>2 Q. This morning we had a discussion about</p> <p>3 the word "martyr" in connection with the Levitt,</p> <p>4 Matthew Levitt, piece; do you recall?</p> <p>5 A. The word "murder?"</p> <p>6 Q. The word "martyr."</p> <p>7 A. Oh, martyr. Yes, I do recall that</p> <p>8 discussion.</p> <p>9 Q. Do you know what Arabic word was used</p> <p>10 in that speech?</p> <p>11 A. No.</p> <p>12 Q. Let's turn back to the word "Jihad."</p> <p>13 In your opinion, is there any definition of the</p> <p>14 word "Jihad" that does not involve violent</p> <p>15 struggle?</p> <p>16 A. Yes, there are.</p> <p>17 Q. Tell me what that definition is?</p> <p>18 A. I'd have to go into a discussion of</p> <p>19 Islam, but Islam has a variety of writings. They</p> <p>20 put great emphasis on different Imams. Many of</p> <p>21 them do not even come out of schools. They</p>	<p style="text-align: right;">Page 232</p> <p>1 to paradise and you have certain rewards.</p> <p>2 So to answer your question, there are</p> <p>3 different meanings, but there's two main</p> <p>4 meanings. One is this moral, spiritual, try to</p> <p>5 live a better life, and the other one is kill.</p> <p>6 But then they use the term -- then there's a</p> <p>7 variation on the kill part, where some believe</p> <p>8 that it's an offensive obligation to go out and</p> <p>9 target individuals to kill them. The other</p> <p>10 school of thought says, "Yeah, you're going out</p> <p>11 to kill these individuals. Even though you're on</p> <p>12 the offense, you're actually defending the</p> <p>13 faith."</p> <p>14 Q. So is it fair to say that there is a</p> <p>15 wide spectrum of definition of the word "Jihad?"</p> <p>16 A. There are two main schools, as I</p> <p>17 indicated, and they are pretty far apart. One</p> <p>18 deals with moral obligations and following the</p> <p>19 rituals, and the other one deals with violence.</p> <p>20 In between, there's I guess what I can</p> <p>21 characterize as two main branches. It's not a</p>
<p style="text-align: right;">Page 231</p> <p>1 simply take the title and have a following of</p> <p>2 individuals, and they make pronouncements.</p> <p>3 So in the mainstream literature, Jihad</p> <p>4 can mean a spiritual quest to better yourself,</p> <p>5 associated with the pillars of Islam, and the</p> <p>6 pillars of Islam deal with obligations that</p> <p>7 you're expected to do if you're a Muslim in order</p> <p>8 to work your way into paradise before the</p> <p>9 judgment of Allah.</p> <p>10 So it can mean a spiritual cleansing,</p> <p>11 a striving to do better in your life, to live by</p> <p>12 the moral code, i.e., the pillars of Islam. It</p> <p>13 also is used in a "defensive" term -- and again,</p> <p>14 defense, offense -- where they believe that some</p> <p>15 Imams teach -- and this is particularly the</p> <p>16 strain of Wahhabism, W-H-A-B-B-I-S-M (sic). But</p> <p>17 they believe that it's your duty to literally</p> <p>18 kill people that do not agree with your orthodox</p> <p>19 theology, and if you kill in the name of Jihad</p> <p>20 someone that is outside of your belief, you</p> <p>21 bypass the judgment of Allah and you go directly</p>	<p style="text-align: right;">Page 233</p> <p>1 spectrum, it's two main branches of the ideology,</p> <p>2 in my understanding.</p> <p>3 Q. The quote that you cite to in your</p> <p>4 rebuttal report is from 1996, correct?</p> <p>5 A. Yes.</p> <p>6 Q. Do you know the context of the speech</p> <p>7 that Arafat was giving?</p> <p>8 A. Well, again, I don't have the full</p> <p>9 text of the speech in front of me. I think a</p> <p>10 plain reading -- and again, when you compare it</p> <p>11 to the list of Arafat quotes I've got, you'll</p> <p>12 notice that many of them were from the mid '90s,</p> <p>13 late '90s, where he's advocating, in my opinion,</p> <p>14 violence, so I don't know the full context of</p> <p>15 that particular quote.</p> <p>16 Q. Do you know where he was speaking?</p> <p>17 A. I'd have to refer back to my notes. I</p> <p>18 don't have that in here.</p> <p>19 What I generally do when I write a</p> <p>20 paper sometimes, in the articles I'll put a quote</p> <p>21 to kind of amplify the theme, and that's what I</p>

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

<p style="text-align: right;">Page 234</p> <p>1 did in this case.</p> <p>2 Q. And other than what you cited in your 3 report, are there other bases for this particular 4 opinion?</p> <p>5 MR. YALOWITZ: Objection. I don't 6 understand the question.</p> <p>7 A. What opinion?</p> <p>8 Q. You've cited this quotation, correct, 9 and dropped a footnote?</p> <p>10 A. Right.</p> <p>11 Q. As part of your section called, 12 "History of Yasser Arafat and the PLO?"</p> <p>13 A. Uh-huh.</p> <p>14 Q. And you've just said that based on the 15 context -- well, strike that. Maybe you haven't 16 said that.</p> <p>17 What is the relevance of this quote to 18 you?</p> <p>19 A. Well, it underscores the theme in Part 20 2 that he was willing to use violence when 21 necessary to achieve his ends. Whether that</p>	<p style="text-align: right;">Page 236</p> <p>1 Q. What opinion of Glen Robinson does 2 this part of your rebuttal report rebut?</p> <p>3 A. Well, in his report, he was -- if I 4 recall correctly, he indicated that Force 17 was 5 not as powerful as individuals made it out to be. 6 It had no connection with Yasser Arafat, as he 7 did with all these organizations. So I'd have to 8 look at his report and point you to the parts 9 where he talked about Force 17. It's quite a 10 lengthy report he had.</p> <p>11 Q. But you believe that he did write 12 about Force 17 in his report?</p> <p>13 A. I think he did mention it.</p> <p>14 Q. In your discussion of Force 17, you 15 state that Imad, I-M-A-D, Fa'iz, 16 F-A-apostrophe-I-Z, Mughniyah, M-U-G-H-N-I-Y-A-H, 17 achieved a high rank in Hezbollah.</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And for that you cite to a 20 Washington Post article, correct?</p> <p>21 A. February the 14th, 2008, yes.</p>
<p style="text-align: right;">Page 235</p> <p>1 violence -- and that violence is indicated by the 2 words, "Struggle, combat and Jihad," and, in my 3 opinion, just looking at this sentence alone, 4 this is not Jihad associated with being a better 5 moral person individually. This is the Jihad for 6 war because in the context you're talking about, 7 combat and struggle.</p> <p>8 Q. And you can tell that without knowing 9 who he was speaking to, right?</p> <p>10 A. Yeah, I can tell it by reading it.</p> <p>11 Q. Or what the circumstances of the 12 speech were?</p> <p>13 A. I don't know the circumstances of this 14 particular one without referring back to my 15 notes.</p> <p>16 Q. On Page 3 of your rebuttal, you have a 17 discussion of Force 17, right?</p> <p>18 A. Yes.</p> <p>19 Q. Which you allege was involved in 20 terror attacks, mostly in the 1980s?</p> <p>21 A. Yes.</p>	<p style="text-align: right;">Page 237</p> <p>1 Q. By writing that Mughniyah's shining 2 achievement was his high rank in Hezbollah, are 3 you suggesting that Hezbollah was somehow 4 controlled by the PA or PLO?</p> <p>5 A. No.</p> <p>6 Q. So what is the relevance of his 7 ascendancy in Hezbollah?</p> <p>8 A. Hezbollah is a terrorist organization 9 that is so recognized by the U.S. Government, and 10 it just indicates the mindset of this individual, 11 that this is part and parcel of his modus 12 operandi.</p> <p>13 Q. In your view, what is the 14 relationship, if any, between Hezbollah and 15 Fatah?</p> <p>16 A. I do not know the relationship between 17 those two organizations.</p> <p>18 Q. What about between Hezbollah and the 19 PA?</p> <p>20 A. Do not know. And Hezbollah is located 21 out of Lebanon and they have other interests.</p>

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

Page 238	Page 240
<p>1 Q. In your opinion, is Hezbollah 2 associated with Force 17?</p> <p>3 A. I don't have any specific information 4 on that.</p> <p>5 Q. Tell me why you've included in your 6 report a reference to this individual's high rank 7 in Hezbollah.</p> <p>8 A. Again, they're both terrorist 9 organizations.</p> <p>10 Q. At the top of that page, you state 11 that, "Fatah, now under the umbrella of the PLO, 12 continued to use violent attacks against innocent 13 civilians, even though Fatah purported formally 14 to renounce 'armed struggle' in accordance with 15 the 1993 Oslo Accords," and you cite to a 16 Congressional Research Service report, correct?</p> <p>17 A. Correct.</p> <p>18 (Defendants' Deposition Exhibit Number 19 264 was marked for identification.)</p> <p>20 BY MR. WISE:</p> <p>21 Q. Exhibit 264, is that the document</p>	<p>1 the sentence.</p> <p>2 Q. The paragraph about the Al-Aqsa 3 Martyrs Brigade includes the sentence that, "The 4 Al-Aqsa Martyr Brigade, which emerged in 2000 at 5 the time of the Second Intifada, operated with 6 horrific violence against civilians during the 7 Second Intifada, Footnote 14. Their goal was to 8 use violence against civilians to force Israel to 9 bend to Palestinian demands in 'peace' talks, 10 Footnote 15."</p> <p>11 Both of those citations are also to 12 this CRS report which is Exhibit 264, correct?</p> <p>13 A. Let's see here.</p> <p>14 (Witness Reviews Document.)</p> <p>15 A. No, that's not. That's to the U.S. 16 State Department website list of foreign 17 terrorist organizations.</p> <p>18 Q. Okay. When you have Footnote 14 that 19 says, "Id."?</p> <p>20 A. Oh, I see. Yes, you're right. That 21 does go back to the U.S. Congressional Research</p>
Page 239	Page 241
<p>1 cited in your Footnote Number 11?</p> <p>2 A. It appears to be.</p> <p>3 Q. Now, is this an instance where -- 4 well, let me first ask this question: Can you 5 point me to a place in this report where the CRS 6 indicates that Fatah used violent attacks against 7 innocent civilians?</p> <p>8 A. Well, let me look at the report again. 9 Again, I don't have my copy that's marked. 10 (Witness Reviews Document.)</p> <p>11 A. Okay. I believe my footnote was meant 12 to amplify the second part of that sentence, 13 where it says, "Even though Fatah purported 14 formally to renounce 'armed struggle' in 15 accordance with the 1993 Oslo Accords."</p> <p>16 Q. So the statement that Fatah continued 17 to use violent attacks against innocent civilians 18 is just your opinion, not drawn directly from 19 this report?</p> <p>20 A. That is my opinion, but I believe the 21 footnote was meant to amplify the second part of</p>	<p>1 Service, which -- yes.</p> <p>2 Q. And having looked at this document, 3 can you point me to where the CRS report states 4 that the Al-Aqsa Martyrs Brigade operated with 5 horrific violence against civilians?</p> <p>6 A. Well, the report talks about the 7 origins of the Brigades and the fact that they 8 are a designated foreign terrorist organization, 9 so there is -- that would be on Page -- under 10 Fatah and the Palestinian Liberation Organization 11 leadership instruction about the middle of that 12 paragraph.</p> <p>13 Q. So it was the fact of the designation 14 by the State Department that led you to say that 15 they operated with horrific violence against 16 civilians?</p> <p>17 A. Of course.</p> <p>18 Q. But that language, you would agree 19 with me, is not in the CRS report?</p> <p>20 A. If it was, I would have quoted it.</p> <p>21 Q. Your next sentence where you drop a</p>

Page 242	Page 244
<p>1 footnote after the sentence there, "Goal was to 2 use violence against civilians to force Israel to 3 bend to Palestinian demands in 'peace' talks," 4 and then you site to the CRS report, where in the 5 CRS report do you see support for that 6 contention?</p> <p>7 A. That's the general theme of the 8 organization. And I'm not citing to that as the 9 sole authority for that sentence; I just simply 10 do an Id. to indicate that that report also 11 amplifies that point, but that's an obvious 12 statement in my mind.</p> <p>13 Q. Okay. It amplifies the point, but 14 you'd agree the report doesn't actually make that 15 point, correct?</p> <p>16 A. It doesn't use that same language, no, 17 but that's obviously what they do. That's what 18 it's all about.</p> <p>19 Q. But that's based on something other 20 than what's in this report, correct?</p> <p>21 A. I wouldn't say that's correct, no.</p>	<p>1 the peace talks?</p> <p>2 Q. Yes.</p> <p>3 A. No, they're not involved in the talks, 4 but by their actions, they're influencing the 5 outcome of the talks. That's the whole goal of 6 terrorism.</p> <p>7 Q. On Page 3, you have a section about 8 the Tanzim militia in the last paragraph?</p> <p>9 A. Yes.</p> <p>10 Q. In your initial report, you wrote that 11 you had read the complaint in Sokolow versus PLO, 12 correct?</p> <p>13 A. That's correct.</p> <p>14 Q. Which of the attacks in Sokolow are 15 alleged to be the work of Tanzim?</p> <p>16 A. Well, as you look at the complaint, 17 the complaint indicates a listing of various 18 terrorists organizations, to include unknown 19 organizations in that list, and so I think the 20 complaint also uses the term "terrorism units" to 21 indicate that these are groups that operate. So</p>
Page 243	Page 245
<p>1 The general theme of the report supports that 2 sentence.</p> <p>3 Q. Professor, point to me the part of 4 this report that supports the sentence that 5 Al-Aqsa Martyrs Brigades', "Goal was to use 6 violence against civilians to force Israel to 7 bend to Palestinian demands in 'peace' talks."</p> <p>8 A. Okay. "Additionally, three 9 militia-type organizations have developed from 10 Fatah: The Al-Aqsa Martyrs Brigade, a designated 11 foreign terrorist organization that emerged 12 during the intifada that began in September 2000, 13 and takes a violent approach to force Israel to 14 end its occupation," and that's basically what 15 that sentence is saying in my paper, and that's 16 another way to say it.</p> <p>17 Q. You think that's the same thing?</p> <p>18 A. Very similar.</p> <p>19 Q. Was the Al-Aqsa Martyrs Brigade 20 involved in peace talks?</p> <p>21 A. Well, were they directly involved in</p>	<p>1 while you don't list them all in the complaint, 2 the complaint does list some of them.</p> <p>3 Q. Is it your belief that the Sokolow 4 complaint makes allegations against the Tanzim 5 militia?</p> <p>6 A. They're included in it, I would say, 7 yes.</p> <p>8 Q. You cite three times to a 2002 CRS 9 report titled, "The PLO and its Factions," 10 correct?</p> <p>11 A. Let me check. I see three cites, yes.</p> <p>12 MR. WISE: I only have one copy of 13 this for some reason, so I'm going to mark it.</p> <p>14 MR. YALOWITZ: Why don't we pause for 15 a moment.</p> <p>16 MR. WISE: You want me to go copy it?</p> <p>17 MR. YALOWITZ: Yeah. Actually, I 18 think Jeffrey has a copy of it. It's June 10th, 19 2012?</p> <p>20 MR. WISE: Yeah. So let's mark this.</p> <p>21 (Defendants' Deposition Exhibit Number</p>

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

Page 246	Page 248
1 265 was marked for identification.)	1 Q. And you believe it to be accurate in
2 BY MR. WISE:	2 its description of the Tanzim, correct?
3 Q. So this is 265. Take a look at this	3 A. I'd have to look at the context again.
4 and make sure that it matches what you're looking	4 Again, the footnotes don't stand for every
5 at in your notebook.	5 proposition in the sentence. It depends on what
6 A. Okay.	6 part of the sentence. We'd have to look at the
7 (Witness Reviews Document.)	7 sentence and dissect it.
8 A. Looks like I Xeroxed every other page.	8 Q. Is it fair to say that you found this
9 Didn't push two-sided, pushed one-sided, so we	9 document to be a credible document?
10 have every other page of this document.	10 A. Yes. The CRS report, yes.
11 MR. YALOWITZ: Maybe we should just	11 Q. This report also covers the Al-Aqsa
12 get a couple copies made.	12 Martyrs Brigade, correct?
13 MR. WISE: Sure. I apologize.	13 A. Yes, it does.
14 (Brief Recess.)	14 Q. And on page CRS 5, the last paragraph
15 BY MR. WISE:	15 starts, "The Al Aqsa Martyrs Brigade does not
16 Q. Professor, you have 265 in front of	16 have a well defined structure and, of the
17 you?	17 factions discussed in this section, is the one
18 A. Yes.	18 over which Arafat would appear to have the least
19 Q. Which is the document cited Footnote	19 political control." Correct?
20 21 of your rebuttal report?	20 A. That's what it says.
21 A. Yes, it is.	21 Q. The next sentence says, "There is no
Page 247	Page 249
1 MR. YALOWITZ: I'm sorry, I have the	1 firm evidence that Arafat selected any leaders or
2 wrong one.	2 commanders of the Brigades or specifically
3 MR. WISE: 265 is there.	3 authorized its formation." Right?
4 BY MR. WISE:	4 A. Yes.
5 Q. The copy that you came with today was	5 Q. You didn't include either of those
6 missing every other page, correct?	6 portions of the CRS report in your rebuttal,
7 A. Yes, it was.	7 correct?
8 Q. Did you have another copy of that	8 A. No, I didn't take any quotes from
9 document that you worked off of when you wrote	9 those sections.
10 this report?	10 Q. On the next page, the report
11 A. Oh, yeah. Yes, I did.	11 concludes, in the first sentence of the first
12 Q. What did you do with that copy?	12 paragraph, "It is not possible from publicly
13 A. It's in my office.	13 available information to determine the exact
14 Q. So look at 265, if you would.	14 extent to which Arafat is able to or has sought
15 A. Okay.	15 to control Palestinian factions that use
16 Q. And we were talking about your	16 violence." Correct?
17 paragraph about Tanzim, correct?	17 A. That's what it says.
18 A. Correct.	18 Q. You didn't cite that conclusion in
19 Q. You cite 265 three times in your	19 your report, correct?
20 review of Tanzim?	20 A. Well, I think I did to a degree
21 A. Correct.	21 because if you read the sentence, it says, "It's

<p style="text-align: right;">Page 250</p> <p>1 not possible to determine the exact extent," and 2 I think that's a correct statement, but I think 3 that goes without saying. You can't determine 4 the exact extent because, again, that's a pattern 5 that totalitarian leaders utilize when they 6 conduct acts of terror. They don't want to leave 7 a paper trail.</p> <p>8 Q. Do you believe there's any portion of 9 your rebuttal report that suggests that, "It is 10 not possible from publicly available information 11 to determine the exact extent to which Arafat is 12 able to or has sought to control Palestinian 13 factions that use violence"?</p> <p>14 A. I think I cover that point on Page 2 15 of my report, where I compliment Arafat as being 16 a master at duplicity. He was the perfect choice 17 for the PLO because he was very good at doing 18 that. Shrewd leader who embraced terrorism on 19 the one hand and portrayed himself as a man of 20 peace on the other.</p> <p>21 Q. That is where you believe you</p>	<p style="text-align: right;">Page 252</p> <p>1 people in terms of his leadership in the PA, the 2 PNA, PLO and Fatah.</p> <p>3 Q. Aside from the text of the report, let 4 me just ask you this as a yes or no question: Is 5 it your opinion as you sit here today that the PA 6 has been recognized as the, "Sole legitimate 7 representative of the Palestinian people"?</p> <p>8 A. The PA or the PNA.</p> <p>9 Q. Let's start with the PA. Has the PA 10 ever been recognized as the sole legitimate 11 representative of the Palestinian people?</p> <p>12 A. I believe it has.</p> <p>13 Q. And what about the PNA?</p> <p>14 A. I believe that's true, too.</p> <p>15 Q. Later on Page 4 you cite to a Council 16 on Foreign Relations report from 2006 at Footnote 17 29, correct?</p> <p>18 A. Correct.</p> <p>19 Q. And that same piece is cited for your 20 last statement on that page, correct?</p> <p>21 A. Well, when you say it's stated for</p>
<p style="text-align: right;">Page 251</p> <p>1 acknowledge the sentiment in that sentence of the 2 CRS report?</p> <p>3 A. Yes.</p> <p>4 Q. On Page 4 of your report, you state 5 that pursuant to the, excuse me, 1993 Oslo 6 Accords, Israel, quote, "Recognized the 7 Palestinian National Authority (PNA) as the sole 8 legitimate representative of the Palestinian 9 people, with Arafat as its head period." Right?</p> <p>10 A. Yes.</p> <p>11 Q. You know that's factually incorrect, 12 right?</p> <p>13 A. No, I don't.</p> <p>14 Q. You believe that the PA or the PNA was 15 at some point the sole legitimate representative 16 of the Palestinian people?</p> <p>17 A. Well, they were recognized, yes, as 18 the legitimate representative. But, again, 19 that's a function that Arafat was the head, so 20 they recognized -- basically, what I'm trying to 21 say is Arafat is the head of the Palestinian</p>	<p style="text-align: right;">Page 253</p> <p>1 that, again, it's a footnote, so it's associated 2 with that last sentence; that is correct.</p> <p>3 Q. When you say, "It's associated with 4 that last sentence"?</p> <p>5 A. Yes, I did say that.</p> <p>6 Q. When you put the footnote there, what 7 is -- strike that. Let's go to the document.</p> <p>8 (Defendants' Deposition Exhibit Number 9 266 was marked for identification.)</p> <p>10 BY MR. WISE:</p> <p>11 Q. Do you recognize 266 as the document 12 cited in your Footnotes 29 and 30?</p> <p>13 A. This appears to be that document.</p> <p>14 Q. You first cite it for the proposition 15 that, "Accordingly, when it came to fending off 16 accusations that he failed to combat terrorism, 17 Arafat would maintain with a straight face that 18 he was doing everything in his power to fight 19 it."</p> <p>20 Did I read that correctly?</p> <p>21 A. That is a correct reading of that</p>

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

<p style="text-align: right;">Page 254</p> <p>1 sentence.</p> <p>2 Q. And you are now saying that when you</p> <p>3 dropped the footnote, it was to amplify your</p> <p>4 statement, not to suggest that this document</p> <p>5 supported that conclusion; am I understanding you</p> <p>6 correctly?</p> <p>7 A. I need to read the document again. I</p> <p>8 don't have my original copy in front of me. I</p> <p>9 notice this one is dated December of 2005.</p> <p>10 (Witness Reviews Document.)</p> <p>11 A. I'm not sure this is the one I cited</p> <p>12 to. I'll just read it real quick.</p> <p>13 (Witness Reviews Document.)</p> <p>14 A. It substantially looks like the same</p> <p>15 document. So your question is: Does this</p> <p>16 document amplify some part of that sentence?</p> <p>17 Yes.</p> <p>18 Q. But when you drop a footnote to it,</p> <p>19 you're not suggesting that this report directly</p> <p>20 supports the contention you make in the sentence;</p> <p>21 is that your testimony?</p>	<p style="text-align: right;">Page 256</p> <p>1 Israeli attacks destroyed forces the PA could</p> <p>2 have used to crack down, correct?</p> <p>3 A. In my report, yes.</p> <p>4 Q. And that's support for the sentence</p> <p>5 that reads, "His efforts to portray his sense of</p> <p>6 helplessness included circular arguments claiming</p> <p>7 that Israeli attacks on those responsible for</p> <p>8 terrorism destroyed the very forces he could have</p> <p>9 used to crack down on terrorism!"?</p> <p>10 A. Uh-huh. Yes.</p> <p>11 Q. On Page 5, you cite to a 2002</p> <p>12 Congressional Research Service report titled</p> <p>13 "Terrorism: Near Eastern Groups and State</p> <p>14 Sponsors."</p> <p>15 A. Yes.</p> <p>16 Q. For the proposition that</p> <p>17 administrative reports, "Consistently found that</p> <p>18 factions associated with the PLO encouraged or</p> <p>19 participated in illegal violence against</p> <p>20 civilians in Israel," correct?</p> <p>21 A. That's correct.</p>
<p style="text-align: right;">Page 255</p> <p>1 A. What does "drop a footnote" mean?</p> <p>2 Q. Write a footnote at the end of the</p> <p>3 sentence and then cite to this article.</p> <p>4 A. It depends. It depends on the</p> <p>5 sentence and on the footnote. So this particular</p> <p>6 sentence, you can amplify some of, you know, the</p> <p>7 content from this report, yes.</p> <p>8 Q. Okay. So point to me in the exhibit,</p> <p>9 266, what portion of 266 you were referring to</p> <p>10 when you cited this article in Footnote 29.</p> <p>11 A. I call your attention to the top</p> <p>12 portion, third line, fourth line down on the</p> <p>13 second page, where it has, "PA leaders insisted</p> <p>14 Arafat was doing all he could to fight</p> <p>15 terrorism." And then a little further down,</p> <p>16 "Israeli attacks have destroyed the very forces</p> <p>17 Arafat could have used to crack down on</p> <p>18 terrorism," and that would answer Footnote 30 on</p> <p>19 Page 4 of my white paper.</p> <p>20 Q. So you're citing to the portion of the</p> <p>21 article that states that PA officials claimed</p>	<p style="text-align: right;">Page 257</p> <p>1 (Defendants' Deposition Exhibit Number</p> <p>2 267 was marked for identification.)</p> <p>3 BY MR. WISE:</p> <p>4 Q. Is 267 the document you cited in the</p> <p>5 Footnote 31?</p> <p>6 A. I believe it is. Yes, I recognize the</p> <p>7 front of it and the Table of Contents. Yes, yes</p> <p>8 it is.</p> <p>9 Q. Now, in your footnote you don't cite</p> <p>10 to a -- oh, you do cite to a specific page,</p> <p>11 excuse me. So let's turn to Page 23.</p> <p>12 A. Okay, I'm on Page 23.</p> <p>13 Q. And tell me, as you look at this,</p> <p>14 where the support is on this page for the</p> <p>15 assertion that administration reports, plural,</p> <p>16 "Consistently found that factions associated with</p> <p>17 the PLO encouraged or participated in illegal</p> <p>18 violence against civilians in Israel."</p> <p>19 A. Well, I believe I'm referring to the</p> <p>20 first full paragraph and four lines down.</p> <p>21 Q. Which reads, "An Administration report</p>

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

Page 258	Page 260
<p>1 to Congress on PLO compliance with the 2 commitments (covering December 15, 2000 through 3 June 15, 2001) alleges that factions of the PLO 4 have encouraged or participated in violence 5 against Israel," correct?</p> <p>6 A. Yes. And then you could include the 7 rest of that as well, so this is an example of an 8 administrative report that amplifies my general 9 sentence that -- in the plural, and in that, I 10 would include, of course, the broader reports 11 that Congress has issued that I list in the white 12 paper.</p> <p>13 Q. The document you cite refers to a 14 single report, right?</p> <p>15 A. The footnote refers to a single 16 report, yeah. The footnote is quoting a single 17 report, and I use that as an example of one, but 18 my opinion is that there are numerous 19 administrative reports, and I would include in 20 that the resolutions, the bills as administration 21 in the broader sense, our legislative branch.</p>	<p>1 A. Clarified. 2 Q. -- something that was not -- 3 MR. YALOWITZ: Object to the form. 4 A. I'd use the word "clarified". 5 Q. But you amplified something that was 6 not in the original document? 7 MR. YALOWITZ: Objection. 8 Q. You can answer. 9 A. I wouldn't say "amplified." I'd say 10 "clarified." So no. The answer is no. 11 Q. You clarified something that was not 12 in the original report? 13 A. I made it clearer. 14 Q. Turn to Page 6 of your rebuttal 15 report. You state that, in the second paragraph, 16 third line, "A 2012 United States Congressional 17 Research Service report claims that 'since Oslo 18 in 1993, these groups [Palestinian terror 19 organizations] have engaged in a variety of 20 methods of violence, killing approximately 1,350 21 Israelis (over 600 civilians" --</p>
<p>1 Q. Okay. You say in that same sentence, 2 "The PLO encouraged or participated in illegal 3 violence against civilians in Israel."</p> <p>4 Looking at the Congressional Research 5 Service document you cited, would you agree with 6 me that the report does not include the words 7 "illegal" or "against civilians?"</p> <p>8 A. Well, terrorism is illegal by 9 definition, and the targets of terrorism are 10 generally civilians, so it's included in there, 11 in my opinion. Doesn't specifically use those 12 two words.</p> <p>13 Q. So this is another example of where 14 you amplified what was in the document that you 15 cited?</p> <p>16 MR. YALOWITZ: Object to the form.</p> <p>17 A. Violence against Israel, it's obvious 18 that the violence in question is towards 19 civilians in Israel, and the violence is illegal.</p> <p>20 Q. So it's another example of where you 21 amplified --</p>	<p>1 Q. Okay. You say in that same sentence, 2 "The PLO encouraged or participated in illegal 3 violence against civilians in Israel."</p> <p>4 Looking at the Congressional Research 5 Service document you cited, would you agree with 6 me that the report does not include the words 7 "illegal" or "against civilians?"</p> <p>8 A. Well, terrorism is illegal by 9 definition, and the targets of terrorism are 10 generally civilians, so it's included in there, 11 in my opinion. Doesn't specifically use those 12 two words.</p> <p>13 Q. So this is another example of where 14 you amplified what was in the document that you 15 cited?</p> <p>16 MR. YALOWITZ: Object to the form.</p> <p>17 A. Violence against Israel, it's obvious 18 that the violence in question is towards 19 civilians in Israel, and the violence is illegal.</p> <p>20 Q. So it's another example of where you 21 amplified --</p> <p>1 MR. YALOWITZ: Objection. 2 A. Nine hundred. 3 Q. Excuse me? 4 A. You said 600. It says 900. 5 Q. Nine hundred. Thank you. 6 -- including Jewish settlers in the 7 Palestinian territories - and 450 security force 8 personnel," correct? 9 A. That's what it says. 10 Q. And you cited to this Congressional 11 Research Service report from 2012? 12 A. Yes. 13 MR. WISE: Mark that. 14 (Defendants' Deposition Exhibit Number 15 268 was marked for identification.) 16 BY MR. WISE: 17 Q. First question: You added the 18 [Palestinian terror organizations] language, 19 correct? 20 A. That's correct. 21 Q. The report itself names specific</p>

Page 262	Page 264
<p>1 organizations, and I'll direct your attention to 2 Page 11.</p> <p>3 A. I'm with you.</p> <p>4 Q. And then the specific groups that the 5 report identifies are Hamas, the Abu Nidal 6 Organization, N-I-D-A-L, the Al-Aqsa Martyrs 7 Brigade, Palestine Liberation Front, Palestine 8 Islamic Jihad, Popular Front for the Liberation 9 of Palestine, and Popular Front for the 10 Liberation of Palestine-General Command, correct?</p> <p>11 A. That is correct, but my sentence where 12 I quoted from does not include that. That's in 13 the previous sentences.</p> <p>14 In other words, I didn't leave 15 anything out in my quote. There's no ellipses.</p> <p>16 Q. Okay. The quote says, "Since Oslo in 17 1993, these groups have engaged in a variety of 18 methods of violence."</p> <p>19 A. Yes.</p> <p>20 Q. Correct?</p> <p>21 A. And that's starting -- the sentence</p>	<p>1 A. Well, there are a lot of connections.</p> <p>2 Q. Tell me what they are.</p> <p>3 A. They're Palestinians. They're 4 composed of people that are Palestinians. It is 5 an organization that is vying for power with the 6 Fatah party. Arafat at one time attempted to 7 co-op them, but they refused, so there's, you 8 know, there's -- there's not a direct link, but 9 there is a link.</p> <p>10 Q. Any other links that you can name 11 other than what you've just told me?</p> <p>12 A. Well, we know that Arafat, again, made 13 several attempts and overtures towards Hamas to 14 have them join a unity government. We know that 15 Arafat knew that Hamas engaged in violence 16 against civilians, and we know that Arafat had 17 responsibility for that violence because he 18 incited and used Hamas for his own purposes, in 19 my opinion, to engage in violence.</p> <p>20 Q. Anything else?</p> <p>21 A. Not in the general sense.</p>
Page 263	Page 265
<p>1 you read is several sentences before that 2 sentence that I quoted.</p> <p>3 Q. In the language that you quoted, the 4 words "these groups" refers to the list of 5 organizations that I just read to you, right?</p> <p>6 A. Yes.</p> <p>7 Q. This report does not allege that any 8 of those groups were, "Under Arafat," right?</p> <p>9 A. Incorrect. It's got the group Al-Aqsa 10 Martyrs Brigade, such as the Fatah-affiliated, 11 Fatah -- Oh, the Brigade came out of Fatah. 12 Arafat's the founder of Fatah.</p> <p>13 Q. I'm sorry. Where are you reading?</p> <p>14 A. I'm reading from the sentence where it 15 starts, "Most Palestinian militant groups," and 16 you'll see a dash, "such as Fatah-affiliated 17 Al-Aqsa Martyrs Brigade." Fatah is the party 18 that Arafat heads and founded. The Brigade came 19 out of Fatah. Therefore, there is a connection.</p> <p>20 Q. What is the connection between Hamas 21 and the Palestinian Authority?</p>	<p>1 Q. What are the links between the 2 Palestinian Authority and the Abu Nidal 3 Organization?</p> <p>4 A. Well, these organizations that are 5 listed here, they are organizations that exist in 6 the Palestinian territories, and you would expect 7 to see, again under my discipline of terrorism 8 law, that you wouldn't -- you would not expect to 9 see a direct command and control linkage where 10 Arafat is sending out direct orders to these 11 organizations. That's not how they operate.</p> <p>12 So in some cases, the links are clear, 13 much clearer, for example, when responsibility is 14 claimed for certain terror attacks. In other 15 cases, you develop culpability by the actions of 16 Yasser Arafat and the PLO, how they deal with 17 these organizations, how they perceive them.</p> <p>18 Q. So what is the link between the 19 Palestinian Authority and the Abu Nidal 20 Organization?</p> <p>21 A. Well, I think that they are -- Arafat</p>

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

<p style="text-align: right;">Page 266</p> <p>1 uses them or has used them, solicited them to, 2 incited them to engage in violence.</p> <p>3 Q. Give me one example of what you're 4 talking about.</p> <p>5 A. Well, we can look at the speeches that 6 Arafat has made, public statements about jihad on 7 numerous occasions, and we can look at the 8 resolutions that Congress has passed, 426 by a 9 vote of 365 to 30, where they make certain 10 findings about the responsibility of the 11 Palestinian Authority to control the violence and 12 not to incite violence.</p> <p>13 Q. Do you think in any of those 14 materials, you're going to find any reference to 15 the Abu Nidal Organization?</p> <p>16 A. Well, again, you would not expect 17 direct links because that's the modus operandi. 18 They don't put out. And if they do have direct 19 communiques, they shred them, destroy them. They 20 want to engage in terror without suffering any of 21 the responsibility.</p>	<p style="text-align: right;">Page 268</p> <p>1 Q. That you've made in preparation for 2 this report?</p> <p>3 A. No. Not necessarily, no, I have -- I 4 have notes on books, notes, articles on a variety 5 of terrorist organizations.</p> <p>6 Q. Did you consult those notes in writing 7 this report?</p> <p>8 A. Yes.</p> <p>9 Q. They formed the basis for your report?</p> <p>10 A. In part. My reports also are based on 11 my experience talking to people.</p> <p>12 Q. Tell me what link there is between the 13 Palestine Liberation Front and the Palestinian 14 Authority.</p> <p>15 A. Again, I can tell you that the groups 16 that are associated, that operate within the 17 territory of the Palestinian areas, the links 18 are -- it depends on the situation, on the 19 circumstances, so.</p> <p>20 Q. Can you point to a single link between 21 the Palestinian Authority and the Palestine</p>
<p style="text-align: right;">Page 267</p> <p>1 Q. Who are the leaders of the Abu Nidal 2 Organization?</p> <p>3 A. Again, I am not proficient in Arabic. 4 I can't tell you the names of the leaders, but I 5 know how these organizations operate, and this is 6 a classic case of how a Government, in this case 7 led by Yasser Arafat and the PLO, conducts 8 terror.</p> <p>9 Q. When did the Abu Nidal Organization 10 form?</p> <p>11 A. I'd have to look at my notes.</p> <p>12 Q. Was it ever designated as a foreign 13 terrorist organization?</p> <p>14 A. I believe it is.</p> <p>15 Q. What year?</p> <p>16 A. I'd have to look at my notes.</p> <p>17 Q. You think it's in your notes?</p> <p>18 A. I'm sure it is, yes.</p> <p>19 Q. What notes are you referring to?</p> <p>20 A. The notes that I do not have with me. 21 I have a volume of notes back at my office.</p>	<p style="text-align: right;">Page 269</p> <p>1 Liberation Front?</p> <p>2 A. Give me one second. Let me review my 3 notes here because -- we do know that the PFLP 4 was given 50 of the PLO's 100-seat National 5 Council.</p> <p>6 Q. Do you think the PFLP is the same 7 thing as the Palestine Liberation Front?</p> <p>8 A. The Popular Front for the Liberation 9 of Palestine?</p> <p>10 Q. I'm talking about the Palestine 11 Liberation Front. Do you think that's the same 12 thing as the PFLP?</p> <p>13 A. No, that's a different organization.</p> <p>14 Q. I'm looking for links between the 15 Palestine Liberation Front and the Palestinian 16 Authority.</p> <p>17 A. Well, again, the links would be the 18 same for a vast majority of these groups. They 19 have different names, and the links in terms of 20 culpability is, I guess, what you're asking. If 21 you're asking, "What is the paperwork, what's the</p>

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

Page 270	Page 272
<p>1 charter," I don't know.</p> <p>2 Q. Are you saying that the Palestine</p> <p>3 Liberation Front is just a different name for the</p> <p>4 Palestinian Authority?</p> <p>5 A. No. I'm saying that the Palestinian</p> <p>6 Authority uses various groups that have evolved,</p> <p>7 either on their own or that came out of the Fatah</p> <p>8 party. Like we know, for example, the Martyrs</p> <p>9 Brigade came out of the Fatah party. Other</p> <p>10 terrorist organizations have a more shadowy</p> <p>11 history. It's hard to pin down.</p> <p>12 But in terms of culpability -- and</p> <p>13 that's my expertise -- it's not giving you the</p> <p>14 history of how these organizations developed and</p> <p>15 who founded them, and where did they come from,</p> <p>16 and those types of issues. My concern is with</p> <p>17 the culpability of the PLO, Yasser Arafat, his</p> <p>18 Fatah party vis-a-vis these organizations, and I</p> <p>19 believe that he has culpability.</p> <p>20 Q. You don't know the first thing about</p> <p>21 the Palestine Liberation Front, do you?</p>	<p>1 Q. -- Liberation Front?</p> <p>2 MR. YALOWITZ: Let him finish his</p> <p>3 question.</p> <p>4 A. Oh, sorry. Not off the top of my</p> <p>5 head, no.</p> <p>6 Q. Or a single conversation you've had</p> <p>7 with a colleague about the Palestine Liberation</p> <p>8 Front?</p> <p>9 A. Not that particular organization, no.</p> <p>10 Q. Next line of this CRS report that</p> <p>11 we've just been looking at states, "The</p> <p>12 Palestinians who insist they are engaging in</p> <p>13 asymmetric warfare with a stronger enemy point to</p> <p>14 the approximately 7,000 deaths inflicted on</p> <p>15 Palestinians by Israelis since 1993, some through</p> <p>16 acts of terrorism aimed at civilians." Do you</p> <p>17 see that sentence?</p> <p>18 A. I see it.</p> <p>19 Q. Do you believe that to be a true</p> <p>20 statement about the number of deaths inflicted on</p> <p>21 Palestinians since 1993?</p>
<p>1 A. I know that it's a terrorist</p> <p>2 organization.</p> <p>3 Q. Based on what?</p> <p>4 A. Based on my readings. Based on my</p> <p>5 research.</p> <p>6 Q. What readings and what research are</p> <p>7 you referring to?</p> <p>8 A. I don't understand the question. What</p> <p>9 readings? I mean --</p> <p>10 Q. What readings and what research are</p> <p>11 you referring to as support for your statement</p> <p>12 that you just made?</p> <p>13 A. My readings of numerous articles over</p> <p>14 the years. My discussions with other terrorism</p> <p>15 experts. Again, I can't tell you the history of</p> <p>16 many of these organizations -- who headed them,</p> <p>17 who founded them, where they developed -- that's</p> <p>18 not my expertise.</p> <p>19 Q. You can't cite me to a single article</p> <p>20 you've read about the Palestine --</p> <p>21 A. Not off the top of my head.</p>	<p>1 A. It wouldn't surprise me if it was</p> <p>2 true. You're talking about the casualty figures?</p> <p>3 Q. Yes. Turn to Page 8 of your rebuttal</p> <p>4 report.</p> <p>5 A. I have it.</p> <p>6 Q. Second sentence, you write, "Gathering</p> <p>7 all the pertinent facts, the United States</p> <p>8 Congress specifically found that Yasser Arafat</p> <p>9 and the forces directly under his control were</p> <p>10 responsible for the murder of hundreds of</p> <p>11 innocent Israelis and the wounding of thousands</p> <p>12 more," correct?</p> <p>13 A. Yes.</p> <p>14 Q. Describe what you meant by gathering</p> <p>15 all the pertinent facts as it related to House</p> <p>16 Resolution 4693, which is the resolution cited at</p> <p>17 the end of your sentence.</p> <p>18 A. Well, again, I'm assessing that our</p> <p>19 Congress, before they pass these resolutions by a</p> <p>20 vote of 365 to 30 in the case of Resolution 426,</p> <p>21 did due diligence in gathering all the pertinent</p>

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

<p style="text-align: right;">Page 274</p> <p>1 facts before they would sign their names on this 2 resolution, as any rational person would do. 3 Q. You say, "Assessing." How did you 4 make that assessment? 5 A. How do I make the assessment? 6 Q. Let me ask it a different way. You 7 assumed that they did fact finding. 8 You did not assess it, correct? 9 A. Did I write the report? No, I didn't 10 write it. I'm making the assumption, yes, that 11 Congress did due diligence before they put their 12 name on a House Concurrent Resolution by a vote 13 of 365 to 30, and I'm giving them that 14 assessment, yeah.</p> <p>15 MR. WISE: Can we take a five-minute 16 break?</p> <p>17 MR. YALOWITZ: Sure. 18 (Brief Recess.) 19 BY MR. WISE: 20 Q. Professor, can you turn to Page 12 of 21 your rebuttal report.</p>	<p style="text-align: right;">Page 276</p> <p>1 one. 2 Q. So we're talking about the quote that 3 was cited in the Levitt piece? 4 A. Yes. I wanted to put that in here, 5 but I didn't. 6 Q. You just forgot to put it in? 7 A. I forgot to put it in. 8 Q. Other than that one quote that you 9 forgot, were there others that you considered but 10 decided not to put in? 11 A. Well, there were a lot of quotes that 12 I was aware of associated with his desire for 13 quote, "peace and harmony and brotherhood" and 14 things of that nature. I did not include those 15 in there. 16 Q. So the quotations that contradicted 17 your opinion, you left out of the report? 18 A. Well, I'm not sure that they really 19 contradicted my opinion. I left them out because 20 that's what a totalitarian leader does. They 21 have quotes about peace. And I probably should</p>
<p style="text-align: right;">Page 275</p> <p>1 Starting on Page 12, you cite to 16 2 quotations that you list between Pages 12 and 15, 3 correct? 4 A. Yes. 5 Q. And these quotations were allegedly 6 made between the years 1996 and 2010, correct? 7 A. You know what, I didn't put the dates 8 on some of the ones from '09, '10, '11, and '12, 9 which I should have for consistency, but I 10 believe that to be true. 11 Q. Were there any quotations of Mr. 12 Arafat that you considered and did not include in 13 this list? 14 A. I believe -- well, yes, there was one. 15 There was one quote from 2001, but I didn't put 16 it in here. 17 Q. And why not? 18 A. I forgot. I think that's in the first 19 report, in his incitement of the crowd to -- 20 regarding the 12-year-old boy that was killed, I 21 don't have that in this one. It's in the other</p>	<p style="text-align: right;">Page 277</p> <p>1 have put some in there to amplify his duplicity. 2 Q. To you, any quotation that Arafat made 3 calling for peace, calling for cease-fires, 4 calling for ends to violence were duplicitous? 5 A. At the least, they were highly 6 suspicious because that's the nature of a 7 totalitarian dictator, and that's -- in my 8 opinion, that's what he was. You would have to 9 take them with a grain of salt, as the idiom 10 goes. 11 Q. The first two quotes are alleged to be 12 from speeches Mr. Arafat made in 1996, correct? 13 A. Yes. 14 Q. Four years before the beginning of the 15 Second Intifada, correct? 16 A. That would be correct. 17 Q. Both from public rallies? 18 A. Yes. 19 Q. How do you reconcile the public nature 20 of those speeches with the contention that Arafat 21 was extremely careful to conceal his involvement</p>

Page 278	Page 280
<p>1 in promoting and advocating terror?</p> <p>2 A. It depends on the audience. It</p> <p>3 depends on the audience and depends on the</p> <p>4 context.</p> <p>5 Q. Okay. So looking at Quotes 1 and 2 in</p> <p>6 your list, tell me how you reconcile those</p> <p>7 quotations with your contention that Arafat was</p> <p>8 extremely careful to conceal his involvement in</p> <p>9 promoting and advocating terror, assuming that</p> <p>10 those quotes stand for the proposition that you</p> <p>11 allege.</p> <p>12 A. One of the problems with democracies</p> <p>13 is that they desperately want to believe that the</p> <p>14 opponents of democracies will negotiate with</p> <p>15 them, and, therefore, they're willing to overlook</p> <p>16 statements that would otherwise be offensive.</p> <p>17 Because in their desire for peace, they will try</p> <p>18 to overlook these types of statements, and</p> <p>19 they'll rationalize them by saying that, "Well,</p> <p>20 he simply had to say that to the audience."</p> <p>21 So I think that Yasser Arafat, knowing</p>	<p>1 A. Yes.</p> <p>2 Q. And in this quotation, Arafat is</p> <p>3 alleged to have used the word "Intifada,"</p> <p>4 correct?</p> <p>5 A. Yes.</p> <p>6 Q. What is your definition of the term</p> <p>7 "Intifada?"</p> <p>8 A. It's an uprising. It's an armed</p> <p>9 uprising using violence.</p> <p>10 Q. Armed uprising using violence. Does</p> <p>11 it necessarily constitute armed uprising?</p> <p>12 A. Well, violence can be used with a rock</p> <p>13 or a hand, but generally it refers to violence.</p> <p>14 How that violence is portrayed fluctuates from</p> <p>15 mortar to a rock. Both can kill you.</p> <p>16 Q. Is it your opinion that every time the</p> <p>17 word "Intifada" is used, it is a reference to a</p> <p>18 violent uprising?</p> <p>19 A. Not every time. You'd have to look at</p> <p>20 the context. In this context, I'd say it's a</p> <p>21 call for violence, yes.</p>
<p style="text-align: center;">Page 279</p> <p>1 that, that the international community was so</p> <p>2 desperate for peace that they would allow him</p> <p>3 great latitude, and he played on that.</p> <p>4 Q. So it's your view that Arafat, in</p> <p>5 speaking these words, was calling for acts of</p> <p>6 terror, but believed that democracies would look</p> <p>7 the other way because they wanted so badly to</p> <p>8 believe in peace?</p> <p>9 A. In many instances, that's correct.</p> <p>10 And if you look at the words, themselves, they</p> <p>11 are not direct calls in terms of, "Pick up your</p> <p>12 guns and follow me." They are shrouded in code</p> <p>13 words. As we discussed before, Jihad, Jihad,</p> <p>14 Jihad has two meanings. So if he's confronted,</p> <p>15 he can simply say, "Well, I was referring to the</p> <p>16 'peaceful' meaning." But any reasonable person,</p> <p>17 based on the context and the number of statements</p> <p>18 that he's made, and his duplicity in peace</p> <p>19 negotiations all the way from Camp David back,</p> <p>20 would think otherwise.</p> <p>21 Q. The third quote is from 1997, correct?</p>	<p style="text-align: center;">Page 281</p> <p>1 Q. And tell me the context that leads you</p> <p>2 to that conclusion?</p> <p>3 A. Just a plain reading of the language.</p> <p>4 "Intensify the revolution and the blessed</p> <p>5 intifada ... We must burn the ground under the</p> <p>6 feet of our invaders."</p> <p>7 Q. What was the circumstance of the rally</p> <p>8 at which Arafat made that statement?</p> <p>9 A. I believe it was a political really of</p> <p>10 some sort. But, again, I don't speak the</p> <p>11 language. I do not know.</p> <p>12 Q. Why do you believe that it was a</p> <p>13 political rally?</p> <p>14 A. Most of his rallies were associated</p> <p>15 with him staying in power, and everything he did</p> <p>16 was calculated to maintain his power, expand his</p> <p>17 power in his own interest.</p> <p>18 Q. Do you have any idea what the</p> <p>19 circumstances of this speech were?</p> <p>20 A. I do not know, no.</p> <p>21 Q. The fourth quote reads, "The</p>

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

Page 282	Page 284
<p>1 settlements [Israeli] are a declaration of total 2 war against the Palestinian people, an open and 3 destructive war against our people, our land, and 4 our holy places. The Israeli settlements on our 5 land, in our Jerusalem and in the rest of the 6 West Bank are a war against the peace process." 7 Correct?</p> <p>8 A. That's what it says.</p> <p>9 Q. What is the Conference of Businessmen 10 for Jerusalem?</p> <p>11 A. I've never attended it. I assume it's 12 some type of an organization associated with 13 people that do business in the City of Jerusalem.</p> <p>14 Q. Do you know whether its membership is 15 predominantly Jewish? Predominantly Palestinian?</p> <p>16 A. I would assume that the organization 17 does not have any Jewish members based on the 18 content of this language.</p> <p>19 Q. Why would you assume that?</p> <p>20 A. He's advocating basically violence, in 21 my opinion, against those that are not</p>	<p>1 Q. How do you know that?</p> <p>2 A. Common sense.</p> <p>3 Q. Let's take it clause by clause. "The 4 settlements are a declaration of total war 5 against the Palestinian people."</p> <p>6 Do you claim that part of the sentence 7 is advocating violence?</p> <p>8 A. Well, the Palestinian people, back to 9 the original premise, would not be Jews. These 10 would be Arabs. And it is not a total 11 declaration of war. That's inconsistent with the 12 1993 Oslo Accords. He knows that's not true.</p> <p>13 Q. What part of saying, "The settlements 14 are a declaration of total war against the 15 Palestinian people," is advocating violence?</p> <p>16 A. Well, he's indicating, by using this 17 inflammatory language, which is false, that 18 settlements are not a declaration of total war, 19 because that obviously in the mind of any normal 20 person means that if I am the object of total 21 war, I must do something about it, and that would</p>
<p style="text-align: center;">Page 283</p> <p>1 Palestinian that live in Jerusalem and that 2 occupy what he thinks is his land.</p> <p>3 Q. Tell me the specific language in that 4 quote that you claim is an advocacy of violence 5 by Mr. Arafat.</p> <p>6 A. Well, obviously he believes in this 7 sentence here that the Israelis, by occupying the 8 land, are in a state of total war against the 9 Palestinian people, and, therefore, it's 10 contradictory, obviously, from the 1993 Oslo 11 Accords and the reality on the ground.</p> <p>12 But that is -- you know, it's language 13 that incites. It's language meant to incite, in 14 my opinion.</p> <p>15 Q. You don't know who the listeners were, 16 right?</p> <p>17 A. Well, they're at the Conference of 18 Businessmen for Jerusalem, which I would assume 19 were non-Jews. When he says, "Our people, our 20 land, and our holy places," he's not talking to 21 Jews.</p>	<p style="text-align: center;">Page 285</p> <p>1 be the mind of any person that's reading this, 2 that he's advocating for me to respond to it. 3 And like kind at a minimum, which would be meet 4 violence with violence.</p> <p>5 Q. "An open and destructive war against 6 our people, our land, and our holy places," how 7 is that a call to violence?</p> <p>8 A. Again, he's asking people to respond 9 to the false claim that the Israeli settlements 10 constitute illegal violence. It's normal to 11 assume that if I was a Palestinian reading this 12 letter, and I think any reasonable person would 13 read this, that we need to do something about 14 this. Total war means that -- the term "total 15 war" indicates disregard for civilians to attack 16 anything that -- you know, any structure, any 17 person, any thing. That's total war, which is 18 illegal. Total war is illegal. You cannot 19 engage in total war. It's a war crime. You 20 cannot target civilians. You can't target 21 civilian facilities.</p>

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

<p style="text-align: right;">Page 286</p> <p>1 And so the implication is that they 2 are engaging in a total genocide on the 3 Palestinian people and their holy places, their 4 land, so I think it's logical to assume that he's 5 inciting Palestinians to do something in response 6 to the false claim to justify their use of 7 violence.</p> <p>8 Q. And is that the analysis that you made 9 in including in this sentence in your report?</p> <p>10 A. Yes.</p> <p>11 Q. You would agree that the settlements 12 in the West Bank have been cited as violating 13 international law, correct?</p> <p>14 A. No.</p> <p>15 Q. You don't believe that they have been, 16 or you don't agree with that conclusion?</p> <p>17 A. I do not agree with that conclusion.</p> <p>18 Resolution 242, I believe, talked about the 19 Israeli right to peaceful borders, the return of 20 settlements, not -- the return of territory, not 21 all the territory if you read the language, and</p>	<p style="text-align: right;">Page 288</p> <p>1 A. No.</p> <p>2 Q. Do you know whether any of the 3 original videos were clips spliced together?</p> <p>4 A. I have not reviewed the videos. I do 5 not know if they're spliced.</p> <p>6 Q. Section 5 of your report on Page 15 is 7 titled, "Finances of the PLO and Arafat," 8 correct?</p> <p>9 A. Yes.</p> <p>10 Q. What section of the Robinson report 11 does this section of your rebuttal report rebut?</p> <p>12 A. Well, again, his claim that there's no 13 connection between -- no culpability. When I say 14 connection, I think that's the issue we're really 15 looking here, is not, again, the nature of the 16 terrorist organization, how it developed, where 17 it came from. I'm looking at the culpability of 18 the PLO, the PA, Yasser Arafat, and so this -- 19 you know, this is a conclusion because it is -- 20 you can't have a terrorist connection unless 21 there's funding. So when you say there is no</p>
<p style="text-align: right;">Page 287</p> <p>1 the definite article was left out for a very 2 specific purpose. So, no, I don't, no.</p> <p>3 Q. You don't what? You don't believe --</p> <p>4 A. I don't believe the statement that the 5 occupation is illegal.</p> <p>6 Q. Okay. That wasn't my statement. My 7 statement was: You're aware that they have been 8 cited as being illegal, correct?</p> <p>9 A. By some people, yes. Not by me.</p> <p>10 Q. Seven of the sixteen quotes by my 11 reading of your footnotes come from Palestinian 12 Media Watch. Am I counting that correctly?</p> <p>13 A. Correct.</p> <p>14 Q. And have you personally viewed those 15 sources?</p> <p>16 A. Are you talking about the transcripts 17 or the actual video itself?</p> <p>18 Q. Let's start with the transcripts.</p> <p>19 Have you viewed the transcripts?</p> <p>20 A. I have looked at the transcripts.</p> <p>21 Q. Have you viewed the original videos?</p>	<p style="text-align: right;">Page 289</p> <p>1 terrorist connection, you're also saying there is 2 no funding.</p> <p>3 Q. So Robinson didn't talk about the 4 funding or the finances --</p> <p>5 A. Well, actually, he did. He did.</p> <p>6 Q. Okay. So tell me what part he did.</p> <p>7 A. Well, he is -- most of his critique 8 was associated with the captured documents, 9 Israeli captured documents, and in his report, he 10 went to some length to try to describe these 11 payments in a way that was, in my opinion, 12 circular reasoning.</p> <p>13 Q. And so Section 5 of your report is 14 intended to rebut Robinson's discussion of the 15 ODS documents?</p> <p>16 A. In part.</p> <p>17 Q. What's the other part?</p> <p>18 A. Well, I mean in part, yeah. I don't 19 specifically address the documents in this report 20 because he admits that -- in my opinion, he 21 spends great length not attacking the</p>

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

<p style="text-align: right;">Page 290</p> <p>1 authenticity but trying to draw parallels 2 justifying the payments. Some of the parallels 3 he drew was, you know, payments that some 4 governments give to some organizations to buy 5 their silence, you know, in that context.</p> <p>6 Q. You don't refer to the ODS documents 7 at all in your rebuttal report, correct?</p> <p>8 A. Not in the rebuttal report, no. I 9 took a broader picture about the finances.</p> <p>10 Q. Do you know who Glen Robinson is?</p> <p>11 A. I've never met him.</p> <p>12 Q. Have you heard of him?</p> <p>13 A. I've never heard of him.</p> <p>14 Q. You were not familiar with him at all 15 before you were asked to write a rebuttal report 16 about him?</p> <p>17 MR. YALOWITZ: Object to the form.</p> <p>18 A. I can't say never. I may have met him 19 at a conference. Who knows? I go to a lot of 20 conferences, you know, associated with these type 21 of topics. I can't place him.</p>	<p style="text-align: right;">Page 292</p> <p>1 CERTIFICATE OF CERTIFIED COURT REPORTER 2 I, CHERYL JEFFERIES, a Certified Court 3 Reporter, do hereby certify that the within-named 4 witness personally appeared before me at the time 5 and place herein set out, and after having been 6 duly sworn by me, according to law, was examined 7 by counsel.</p> <p>8 I further certify that the examination 9 was recorded stenographically by me and this 10 transcript is a true record of the proceedings.</p> <p>11 I further certify that I am not of 12 counsel to any of the parties, nor in any way 13 interested in the outcome of this action.</p> <p>14 As witness my hand this 11th day of 15 October, 2013.</p> <p>16 -----</p> <p>17 Cheryl Jefferies 18 Certified Court Reporter</p>
<p style="text-align: right;">Page 291</p> <p>1 MR. WISE: Professor, I think that's 2 all I have.</p> <p>3 THE WITNESS: Thank you very much.</p> <p>4 THE REPORTER: Reading and signing?</p> <p>5 MR. YALOWITZ: Yes, reading and 6 signing is a good idea.</p> <p>7 THE REPORTER: Copy of the deposition?</p> <p>8 MR. YALOWITZ: You know, what I'd like 9 is a regular way copy on -- nothing expedited and 10 just by e-mail.</p> <p>11 THE REPORTER: No hard copy at all?</p> <p>12 MR. YALOWITZ: I'll have a hard copy 13 from the witness so all I need is e-mail so that 14 I have an electronic copy. I don't need 15 expedited. I don't need rough. Just your 16 standard budget style, economy style copy.</p> <p>17 (Reading and signing requested.)</p> <p>18 (Deposition concluded at 3:15 p.m.)</p>	<p style="text-align: right;">Page 293</p> <p>1 DATE SENT: October 11, 2013 2 ERRATA SHEET 3 DEPOSITION OF: Jeffrey Addicott 4 DATE: October 2, 2013 5 CASE: Mark Sokolow, et al vs. The 6 Palestine Liberation Org, et al</p> <p>6 INSTRUCTIONS:</p> <p>7 1. Please read the transcript of your deposition 8 and make note of any corrections or changes 9 on this Errata Sheet.</p> <p>9 2. Indicate below general reason for change, 10 such as:</p> <p>11 A. To correct stenographic error. 12 B. To clarify record. 13 C. To conform to the facts.</p> <p>12 3. Sign the Certificate of Deponent page.</p> <p>13 4. Within 30 days of the Date Sent, return this 14 Errata Sheet, and signed Certificate of 15 Deponent, to the Attorneys listed on the 16 Appearance page.</p> <p>16 PAGE # LINE # CORRECTION REASON</p> <p>17 _____ 18 _____ 19 _____ 20 _____ 21 _____</p>

JEFFREY ADDICOTT DEPOSITION

October 2, 2013

Sokolow v. the PLO

Page 294

1 ERRATA SHEET

2 DEPOSITION OF JEFFREY ADDICOTT:

3 PAGE # LINE # CORRECTION REASON

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Page 295

1 CERTIFICATE OF DEPONENT

2 I hereby certify that I have read and
3 examined the foregoing transcript and:

4 (Check one of the following)

5 () The same is a true and accurate
6 record of the testimony given by me, and I have
7 made no corrections to this transcript.

8 -OR-

9 () Any additions or corrections
10 that I feel are necessary, I have listed on the
11 attached Errata Sheet.12 As witness my hand and signature this
13 _____ day of _____.14 - - - - -
15 JEFFREY ADDICOTT16
17
18
19
20
21

A

AAMB 117:12 120:4
136:13
AAMB's 110:9
ABA 152:15
abandoning 186:14
able 16:16 58:18 74:7
249:14 250:12
Absolutely 7:19 176:4
209:8
Abu 158:4 262:5 265:2
265:19 266:15 267:1
267:9
academic 33:21 34:5,8
34:12 35:13 38:13
74:2
Academy 34:6 59:21
60:8,15 61:8 69:12
accept 57:10 104:6
accepts 27:16
accompanied 150:13
accompany 150:16
Accords 238:15
239:15 251:6 283:11
284:12
Accord's 59:14
accounts 163:8
accuracy 139:9
accurate 16:6 41:1
116:16 123:16
195:14 248:1 295:5
accurately 114:7
accusations 126:4,11
253:16
accused 188:14 189:2
190:15
achieve 71:5 219:7
225:7 234:21
achieved 236:17
achievement 237:2
acknowledge 122:3
251:1
acknowledged 155:9
acronym 172:12,16
act 51:21 53:15 60:16
171:18 175:8 195:18
211:19
acting 204:9
action 1:5 43:14,16,16
46:7 222:3 292:13
actions 33:10 44:3,7
60:13 64:4 87:4
209:18 221:21 244:4
265:15
activists 162:13
activities 46:5 86:3
89:13 131:18 163:19
177:7 215:8

activity 11:11 25:16
97:12,13,14,20
actors 85:1,5,11
acts 35:5 43:11 45:16
71:18,21 85:2,16
86:9,10 87:8 143:5
171:1 175:17,19
176:3 183:14 212:5
225:5 226:17 250:6
272:16 279:5
actual 23:12 58:13
60:19 98:1 121:3
287:17
add 77:7 199:3,13,15
200:11,20 201:2
added 28:3 29:4 54:10
174:3,5 200:4 201:5
261:17
Addicott 1:9 3:2,7,19
3:20 6:5,15,16 39:21
40:6 41:7 76:1 293:3
294:2 295:15
Addicott's 21:21
adding 28:15 29:6
199:16
addition 32:14 200:21
additional 48:15 127:7
Additionally 243:8
additions 295:9
address 6:17 9:4,6
96:20 289:19
administer 21:19
administration 257:15
257:21 258:20
administrative 256:17
258:8,19
admits 4:9 289:20
Admitted 185:9
adopt 15:15 110:21
111:2 117:19 118:1
118:18 179:10
adopted 77:5 104:2
108:8 109:13 111:14
117:5 132:14
adopting 31:3
adoption 115:4
advancing 55:2
advantage 136:7
177:13
advising 100:15,16
advisor 100:4,8
Advocate 82:10
advocating 233:13
278:1,9 282:20 284:7
284:15 285:2
advocation 283:4
affairs 102:9 109:10
136:21 148:17,20

149:1,4,7
affect 164:15
affirm 15:21
affixed 26:17,19
Afghanistan 80:11
agencies 34:7
agency 196:11,18
197:5
agenda 4:13 163:14
192:16
agent 61:20
ago 19:21 36:8 49:6
52:16 54:6 61:16,19
97:16 99:4 125:16
174:17 187:18
agree 28:17 31:2 53:5
53:14 59:4 84:3
115:19 135:11
137:17 174:9 175:14
202:15 211:9 219:1
231:18 241:18
242:14 259:5 286:11
286:16,17
agreed 25:9 123:14
152:10 221:9
agreeing 135:12
ahead 52:20
aid 126:3 133:12,14
aim 132:5
aimed 272:16
aka 143:2
al 1:1,5 130:16 131:10
248:15 293:5,5
Allah 231:9,21
allegations 245:4
allege 235:19 263:7
278:11
alleged 244:15 277:11
280:3
allegedly 103:5 275:5
alleges 166:20 258:3
allow 143:16 279:2
allowed 117:18 145:12
allows 125:18
alter 139:19
al-Aqsa 27:19 32:11
112:21 113:8,17
114:13 115:5 117:11
119:20 120:21 121:4
121:11,19,21 124:21
126:2,5,7 128:5,14
130:10,13 131:15,20
132:1,3,7 134:12
135:21 136:12 140:4
146:9,17 157:9 164:6
202:10 240:2,4 241:4
243:5,10,19 248:11
248:11
262:6 263:9,17

al-Aqsa's 133:13
134:13
Al-Ayyam 182:8
al-Dura 173:18 174:10
174:13 175:5
ambiguous 184:2
American 32:12 33:2,4
33:6 40:16 64:13
151:17 210:6 218:6
218:11
Americans 3:9 12:16
32:16,20 196:7 206:9
207:11,15,15
Amicus 81:4
Amos 88:10
amount 23:21 192:14
amplified 259:14,21
260:5,9
amplifier 200:4
amplifies 228:15,16
242:11,13 258:8
amplify 227:14 228:11
228:13 233:21
239:12,21 254:3,16
255:6 277:1
analysis 4:15 18:12
46:6,15 60:20 70:20
70:21 71:12,13,19
85:7 105:1 106:17,19
122:5 123:14 286:8
analysts 162:11
analyzed 44:3 46:9
47:17 164:7
Anders 24:12,14,18
ANDREW 2:10
annual 89:1 128:9,12
132:19
answer 8:5 38:21 61:5
61:16 79:9,12,14
80:2,2 124:18 221:21
232:2 255:18 260:8
260:10
answered 93:6
anticipatory 204:1
anti-Arab 190:15
anxious 83:19
anybody 149:16
206:12,13
anymore 134:17
apart 232:17
apologize 130:4 142:5
246:13
apostate 170:13
apparatus 92:18
apparently 199:6
appear 40:10 224:11
225:21 248:18
appearance 65:20 66:8

293:15
appearances 2:1 3:20
63:15,17 65:21 66:2
66:14 67:18,19 68:7
appeared 116:19
292:4
appears 7:14 9:18
29:20 44:17 54:7
109:4,16 121:1
137:19 139:11
147:18 148:4 160:16
193:19 220:11 239:2
253:13
applied 105:6
apply 105:13,18 106:4
approach 243:13
appropriate 55:9
204:14
approximate 198:20
approximately 9:19
48:1 60:2 99:4 205:1
260:20 272:14
Aqsa 130:16 131:10
248:15
Arab 4:13 192:17
Arabic 173:4 229:20
230:1,9 267:3
Arabs 284:10
Arafat 4:9 5:5 11:20
27:18 28:8 32:6,7
42:8 49:18 101:12
130:20 132:11
139:21 140:7,10,20
155:11 158:1 166:20
169:17 171:3,16,19
172:4,7 173:8,14,17
174:9 175:11,15,20
176:16,18 177:12
179:21 180:3,7
181:17 182:11
183:13 185:2,9
186:12,17,21 187:10
188:6,7,14,15 217:7
218:17 219:2 224:4
225:1,4 226:16 227:9
228:20 229:4,13,20
233:7,11 234:12
236:6 248:18 249:1
249:14 250:11,15
251:9,19,21 253:17
255:14,17 263:8,18
264:6,12,15,16
265:10,16,21 266:6
267:7 270:17 273:8
275:12 277:2,12,20
278:7,21 279:4 280:2
281:8 283:5 288:7,18
Arafat's 117:10 158:5

182:9,13 185:5,9 187:6 188:20 189:3 189:12 263:12 area 42:21 areas 29:13 268:17 arguments 28:11 256:6 armed 162:8 238:14 239:14 280:8,10,11 Army 100:5 ARNOLD 2:5 arrest 51:19 204:15 article 40:15 52:5,13 52:18 53:3,6,7,11,14 54:3 55:7 57:3,7,11 58:3,3,13,21 59:5 80:10 94:14,19 146:13 155:19 156:1 156:3,3,5,12,13,17 156:20 157:1,10,12 157:17 158:5,11,14 164:17,19 185:12,18 185:21 186:7,12,21 187:8,9 188:6,13 189:9,10 195:11,17 204:10 205:5,8 206:4 217:11,17 218:5,15 225:8,19 226:1,2,14 227:1,2,3,9 229:3,4 236:20 255:3,10,21 271:19 287:1 articles 42:6,16 55:6 55:12,14,15 56:12,14 56:21 57:4,14,17,19 163:9 173:10 233:20 268:4 271:13 Article-The 3:18 ascendancy 237:7 ascertain 144:12 ashamed 96:15 Asia 150:20 Aside 69:1 140:21 187:9 252:3 asked 9:14 10:18 13:9 23:7 25:13 38:17 49:11 56:1,4 61:14 62:12,14 65:18 76:14 99:1 135:4,5,7 209:5 222:12 290:15 asking 7:20 45:20 69:2 113:13,15 115:8 269:20,21 285:8 aspect 110:9 aspects 70:14 86:20 Assad 134:10 Assassins 3:18 assertion 257:15 assess 274:8	assessing 273:18 274:3 assessment 165:20 274:4,5,14 assigned 150:9,11 assistance 215:7 216:14 assistants 24:4,6 associate 26:2 107:3 associated 11:21 13:6 22:11 35:10 40:9 44:11 54:19 57:20 65:7 69:14 70:13 86:21 108:11 121:6 121:14 122:10 134:17 140:14 142:7 142:10,13,18 152:8 159:20 163:18 167:21 176:16 224:4 231:5 235:4 238:2 253:1,3 256:18 257:16 268:16 276:12 281:14 282:12 289:8 290:20 association 122:7 123:18 140:9,16,19 151:17 assume 10:9,14 15:2 56:2 90:2 91:3,5,6,9 91:14 134:15 149:3 172:19 181:15 202:14 204:6 205:16 214:9,13 216:6 282:11,16,19 283:18 285:11 286:4 assumed 199:14 274:7 assuming 13:20 149:6 162:14 278:9 assumption 10:10 59:1 135:2,4 181:16 214:14,15 274:10 assumptions 105:12 105:14,18 106:4 asymmetric 272:13 asymmetrical 151:6 attached 12:14 14:2 88:19 295:11 attaching 112:3 attachment 167:20 attachments 12:2 14:1 attack 132:4 139:17 140:1 145:6 180:7 285:15 attacking 289:21 attacks 4:15 32:21 51:1 68:18 72:8 92:20 98:3 118:9 143:8 144:4 180:4 196:14 207:2 224:5	235:20 238:12 239:6 239:17 244:14 255:16 256:1,7 265:14 attempt 166:14 attempted 264:6 attempting 219:8 attempts 264:13 attend 82:15 attended 179:3 282:11 attention 18:14 51:16 52:17 58:1 163:21 194:17 209:9 255:11 262:1 attorney 38:6 150:9 Attorneys 293:14 attributed 172:7 audience 19:10,14,17 20:1,2,4,11 278:2,3 278:20 August 69:17 authentic 103:14,16 107:13 authenticity 106:11 107:7,10 108:14 290:1 author 53:4 118:19,21 119:2,12,13,16 135:9 156:5 223:10,11 authority 5:10 31:5 32:4,18 33:10 34:10 34:21 41:18 42:4,8 44:4 45:15 46:3 50:4 50:11,16,20 51:4,10 51:19,21 53:15 59:10 60:9 68:14 70:6 71:1 71:10,14 72:18 73:1 73:16 74:3 80:21 81:10 84:8 85:19 87:7 89:10,17 95:17 97:10 99:19 104:19 105:2 110:8 117:18 125:9 130:19 132:10 140:6,13 143:3,16 144:9,15 145:5 154:13 207:13,20 208:11 211:10,18 215:7 216:15 221:3 242:9 251:7 263:21 265:2,19 266:11 268:14,21 269:16 270:4,6 authorized 249:3 authors 56:6 autonomy 130:17 132:8 autopsy 188:21 available 249:13	250:10 avenue 2:5 194:10 Avi 25:19 26:8 Aviv 180:5 aware 32:18 33:6 75:8 75:11 106:10 107:12 133:6 139:3 190:14 276:12 287:7 awhile 77:15 Awise@milchev.com 2:14 Ayacucho 160:3 A-D-D-I-C-O-T-T 224:15 A-F-T-E-R-N-O-O-N 209:1 A-M-O-S 88:12 a.m 1:11	234:14 242:19 268:10 271:3,4,4 279:17 282:17 bases 76:2 79:17 103:15 107:17 234:3 basic 224:1 basically 84:12 88:19 141:8 192:12 243:14 251:20 282:20 basis 73:14,17 107:14 108:7 114:11,17 115:4,8 126:17,18 127:1 135:5,7,12 136:17,19 141:14 142:5 167:15,18 176:5 178:1,19 179:10,12,13 181:16 207:17 208:7 214:8 268:9	beacon 225:3 228:18 bear 192:19 beauty 145:17 began 166:20 243:12 beginning 39:7 150:6 195:3 209:17 277:14 begins 154:20 behalf 2:3,9 123:4 behave 135:19 behavior 70:18 84:17 111:5 153:6 Beit 4:4 belief 228:21 231:20 245:3 believe 12:17,21 13:15 15:14 21:17 22:7,17 22:19 53:17 54:2,5 57:6 58:10 59:18 63:12 66:7 88:5 133:11 136:20 141:10 146:20 147:3 158:7 161:2 167:5 172:14 191:2,13 Bank 92:4,7,10,11,15 92:17 93:7,10,15 132:5 162:6 215:9 282:6 286:12 bankrolled 110:8 bar 146:10 151:17 based 33:21 53:4 109:11,12 111:3 113:11 123:21 126:21 129:13 authorized 249:3 authors 56:6 autonomy 130:17 132:8 autopsy 188:21 available 249:13
--	---	---	---	---	---

243:7	177:15 184:8 275:20	call 10:17 11:5 51:16 52:17 61:20 124:8 163:21 211:17 255:11 280:21 285:7	131:21 center 10:11 23:6,7,17 25:15 27:1 34:3 96:14 152:8,11 153:3 206:8	choose 205:7,14,19 choosing 227:14 chose 205:13,20 chosen 192:15 CIA's 195:12 circuit 122:20 circular 256:6 289:12 circumstance 88:2 98:20 281:7
Benjamin 201:10,13 201:15	bracket 174:14 brackets 174:3	called 6:6 25:11 86:16 149:20 158:20 161:13 171:18 184:8 201:18 203:21 204:2 210:3 217:6,20 234:11	central 130:16 131:15 132:7	circumstances 61:17 164:11 165:2,5 187:10 235:11,13 268:19 281:19
best 88:6 90:5 91:20 162:19,20 178:15 190:7	brand 35:19 42:19 break 66:20 67:2 208:14,16 209:7 274:16	calling 143:18 175:20 183:14 277:3,3,4 279:5	certain 35:5 74:17 108:9 192:13 232:1 265:14 266:9	citation 16:21 50:15 109:21 110:1 164:14 197:2,4 217:10 225:13 227:18,19 228:9
Bet 196:12,21	Brian 2:11 3:17 4:11 39:12 81:15 191:5 192:9	calls 143:11 279:11 Camp 101:13 279:19	certainly 42:20 123:19 195:4 207:7,14	citations 49:8 109:19 116:15 240:11
better 58:12 70:16 130:5 221:19 231:4 231:11 232:5 235:4	briefs 81:4	campaign 32:11,15,19 camps 177:18 178:2	Certificate 292:1 293:12,14 295:1	cite 35:19 50:10 57:9 59:2 73:1 74:1 99:16
beyond 87:9 115:11	Brigade 61:2 112:21 113:8 117:11 119:21 121:1,11,19,21 123:20 124:21 126:2 128:6,15 130:10,14 131:11 132:20 134:12,18 136:9,12 139:15 140:4 144:7 146:9,18 157:9 202:11 240:3,4 241:4	Cannistraro 194:20 195:8	Certified 1:13 292:1,2 292:18	102:7 103:2,3,10 113:13 115:12 119:17 178:14
Bhill@milchev.com 2:15	Brief 67:8 149:11 246:14 274:18	caption 148:1	certify 292:3,8,11 295:2	180:11 185:2 198:4 205:4 207:9 208:9
bias 190:15	Brigades 131:20 164:6 241:7 243:5 249:2	captured 112:19 113:6 289:8,9	Chai 201:18 202:1,15	215:3 216:18 219:10 221:3 222:3,20 224:7
bidding 144:18 183:9	broadcast 186:10	career 152:5	chain 64:9	225:8,11 227:16
big 37:6 142:8	broader 69:19 258:10 258:21 290:9	careful 277:21 278:8	change 19:12 23:3,9,12 23:15,19	228:8 229:13 233:3 236:19 238:15 245:8
bill 210:15,20 211:6,9 212:4 215:6,11,21 216:16 219:10,19 220:13,14,15	brotherhood 276:13	carefully 111:13	characterize 232:21	247:19 249:18
bills 128:19 222:19 258:20	brought 29:18 193:20	Carmon 4:11 190:2,8 190:10 192:2 193:8	charge 19:12 23:3,9,12 23:15,19	252:15 253:14 255:3
bio 35:16	Brigades 131:20 164:6 241:7 243:5 249:2	Carolina 154:1	characterize 232:21	256:11 257:9,10
bipartisan 103:18 108:10 213:17	broadcast 186:10	carriage 147:6 148:3	charge 19:12 23:3,9,12 23:15,19	258:13 271:19 275:1
bit 38:1 133:10	broader 69:19 258:10 258:21 290:9	carried 162:4	charged 23:14 80:12 196:19	cited 16:9 52:14 53:6 62:6 75:1 77:13 94:3
blessed 281:4	broader 69:19 258:10 258:21 290:9	carry 183:9	Charlottesville 82:11	99:14 103:9,19
blew 175:6	broader 69:19 258:10 258:21 290:9	case 32:14 38:9,12 80:6 158:8 162:17	chart 198:14 199:3,13 199:17 200:19 201:2	108:18 109:14
blow 183:20	brotherhood 276:13	cases 45:10 81:7 150:14 265:12,15	charter 141:8,11 204:10 270:1	110:16 112:17 113:3
Boaz 88:8,14 90:8	brought 29:18 193:20	casualties 33:4 210:7 218:7,11	CHARTERED 2:12	115:3,17 120:14,18
body 147:7 148:3 198:20	brutal 225:5 226:17	casualty 273:2	charts 198:11,15 199:1	121:9 124:1,3 126:16
Boerne 6:19	budget 291:16	catch 138:1,4	check 18:1 20:8,10 57:9 66:12 87:19	127:5,19 137:8,10
bomber 136:13 138:17 146:9	built 92:18	categories 35:6	202:13 220:4 245:11	155:16 156:15 166:1
bombing 4:4 137:13 147:7 148:4 151:9 180:5	bullet 200:9 201:8	category 35:19	295:4	168:8 178:15 180:21
bono 25:16	bureau 59:21 182:9,13	cause 88:21 139:9 159:14 170:19	checked 16:6 21:18 116:15	185:19 197:10,19,21
book 35:20 36:14 37:9 42:6 45:13 46:19 47:8,14,16 49:2,8,12 49:14,19 50:1,5 51:6 52:14 53:6 55:16,16 58:2,14,16 59:5	burn 281:5	causes 35:4 82:20	200:3 202:10 213:5	200:3 202:10 213:5
books 42:6 44:17 45:1 45:11,14 46:1 48:9 55:10,13 56:11,13,15 56:18 268:4	Bush 63:9 217:7 218:18	causing 189:2	217:17 219:13 220:2	217:17 219:13 220:2
border 19:21	business 282:13	ceased 217:8	checks 104:17	221:21 229:18 234:2
borders 286:19	Businessmen 282:9 283:18	cease-fires 277:3	chemical 50:21	234:8 239:1 246:19
bottom 12:2 26:14 130:1,9 147:5 155:5 166:10 188:18	bypass 231:21	celebration 146:11	Cheryl 1:13 292:2,17	252:19 253:12
bound 104:15	<hr/> C <hr/>	cells 121:5 130:17	Chevalier 1:11 2:12	254:11 255:10 257:4
Bow 211:20	C 293:11		chief 82:12 100:21 158:6	259:5,15 261:10
boy 173:18 174:15 175:1,18 176:3 177:4	cables 208:4		children 177:19	273:16 276:3 286:12
	calculate 199:8,9		China 98:16	287:8
	calculated 281:16		choice 250:16	cites 119:19 124:20 136:11 146:2 161:8
	calculations 197:15			

166:11 221:6 225:14 245:11 citing 185:12 226:14 242:8 255:20 citizens 33:2,6 138:20 204:21 citizenship 205:1 City 282:13 Civil 1:5 40:18 civilian 285:21 civilians 64:13 118:9 238:13 239:7,17 240:6,8 241:5,16 242:2 243:6 256:20 257:18 259:3,7,10,19 260:21 264:16 272:16 285:15,20 civilized 225:2 228:17 claim 107:13 139:4 144:15 185:1 189:7 189:10,13,16 283:4 284:6 285:9 286:6 288:12 claimed 32:12 139:1 186:13 188:7 255:21 265:14 claiming 256:6 claims 107:15,21 182:10 260:17 clarified 260:1,4,10,11 clarify 293:11 class 122:17,18 classic 35:3 267:6 clause 284:3,3 clauses 214:1 clean 116:8,13 cleansing 231:10 clear 27:17 123:7 126:7 210:1 265:12 clearer 260:13 265:13 clip 229:18 clips 288:3 close 59:1 closely 139:13 142:10 142:13 closer 144:7 closest 47:16 clue 190:13 code 231:12 279:12 Cohen 148:5 195:5 coin 228:17 coined 86:19 152:12 Colin 218:16 collapsed 101:14 colleague 272:7 combat 65:12 150:17 229:15,15,15,15 235:2,7 253:16	come 25:1 42:18 61:1 61:13 62:13,14,15 70:19 80:3 83:5 84:15 89:2 96:11,14 108:15 115:2,18 152:10 165:10 194:9 230:21 270:15 287:11 comes 46:20 73:17 76:10 133:3 comfortable 200:19 comforting 148:12 coming 44:10 134:20 command 64:10 262:10 265:9 commander 155:8,10 157:9 commanders 249:2 commencing 1:11 comment 129:11 comments 45:10 124:9 commit 117:21 143:8 144:4 145:6 175:19 commitments 258:2 committed 175:8 212:5 committee 211:3 220:15,16 committing 175:16 common 73:8,15 75:18 133:19 141:4,5,7 167:3,6,16 176:9,10 176:11,11,12,13,21 190:18 194:6 201:20 204:20 205:10 206:4 206:7,7,11,20,21 207:1 208:1 219:5 284:2 communicate 79:4,20 208:4 communicated 208:10 communiques 266:19 community 279:1 company 96:10 compare 19:4,12 48:18 49:5 233:10 compared 15:12 Compensatory 40:17 compile 74:11 77:1 compiled 16:3 complaint 31:21 244:11,16,17,20 245:1,2,4 complaints 107:18 compliance 159:9 258:1 compliment 250:15 composed 264:4	computer 14:14 computers 96:6 Con 4:18 conceal 277:21 278:8 concentrate 60:16 concentrating 86:4,8 concept 54:15 70:15 117:20 concern 193:12 210:4 218:6 270:16 concerned 54:13 86:12 210:1 concerning 11:18 34:9 concerns 193:10,15 218:10 conclude 104:2 concluded 291:18 concludes 249:11 conclusion 70:20 72:19 76:4 78:4 94:13 103:12,13,16 110:17,19 114:12,15 114:18 115:2,5,18 123:21 124:16 134:20 139:7 169:16 169:20 176:8 177:8 218:13 225:15 249:18 254:5 281:2 286:16,17 288:19 conclusions 76:20 114:16 216:6,7 concurrent 212:10,13 213:1,4,12 214:21 221:7,10 222:20 274:12 condemn 227:12 condemned 221:3 condemning 213:6 conduct 72:8 250:6 conducted 34:9 139:17 conducting 43:4 56:17 conducts 149:4 267:7 conference 89:1 90:11 90:13 91:12 93:16 95:7,9 96:4,8 282:9 283:17 290:19 conferences 93:16 290:20 confident 78:12 conflict 32:17 97:9 conform 293:11 confronted 183:10 279:14 Congress 4:20 5:7,8,12 80:17 103:18 108:8 108:12 150:7 177:19 198:16 209:19 210:1 212:16 213:11,19	214:3,12,16,21 217:1 219:2 221:2,12 222:4 222:6,12,17 258:1,11 266:8 273:8,19 274:11 congressional 5:14 18:9 74:16 103:10 115:16 178:3,6 214:4 218:6,10 221:17,20 222:2 238:16 240:21 256:12 259:4 260:16 261:10 connection 74:12,15 105:8 230:3 236:6 263:19,20 288:13,14 288:20 289:1 connections 206:19 264:1 connotation 171:7 connote 171:17 consider 43:18 70:5 72:4 162:18 163:3,6 182:17 186:17 188:1 consideration 203:15 considered 107:8,21 108:3 191:15 216:9 275:12 276:9 consisted 116:17 consistency 275:9 consistent 17:2,7,13 consistently 210:3 256:17 257:16 consists 121:4 131:11 131:20 conspiring 203:19 constitute 280:11 285:10 Consulate 138:20 consult 268:6 contact 9:9,12,16 82:7 contacted 9:13,19,20 9:21 10:1,4 56:9,16 contained 40:12 79:18 124:16 content 255:7 282:18 contention 54:3 110:14 142:6 224:1 242:6 254:20 277:20 278:7 Contents 161:17,19 257:7 context 26:4 31:10 68:18 87:1 170:10 171:2 177:10 184:4,5 228:5 233:6,14 234:15 235:6 248:3 278:4 279:17 280:20 280:20 281:1 290:5	continental 87:1 contingent 21:20 continue 219:8 continued 33:4,7 173:14,17 221:2 238:12 239:16 continues 154:21 155:6 contradict 223:19 contradicted 276:16 276:19 contradiction 139:11 contradictory 228:2 283:10 control 123:5,6,8,11 143:16 248:19 249:15 250:12 265:9 266:11 273:9 controlled 85:17 121:18,20 122:8,14 122:21 237:4 controlling 123:18 cont'd 4:1 5:1 convention 130:1 conventional 151:5 conversation 272:6 conversations 24:13 24:17 25:3,6 38:13 94:2 conveyed 207:12,18 convince 76:18 copies 246:12 copy 7:6 14:9 22:15 27:10,11,12 29:19 116:8,13,14 137:1 168:9 209:11,12 211:12 239:9 245:12 245:16,18 247:5,8,12 254:8 291:7,9,11,12 291:14,16 Cornyn 152:10 correct 7:18 9:2,6 12:17,21 13:2,4,7 19:2,3 27:7 29:15 30:20,21 33:11,13 37:14 38:3,15 43:5 45:1,2 46:16 47:8,9 48:9 50:7 51:1,11 52:1,2 53:6,12,19 56:7 57:1 59:10,11 60:1 62:7 68:4,5,9 71:7 75:2 76:19,20 77:9 79:18 80:7,8,18 80:19 81:5,6 82:2 83:12 85:5,6 91:19 95:2 100:12 101:18 102:5,9,10 109:14,16 111:11 112:4,7,9,10
---	---	--	---	---

112:15 113:9 114:1,9 115:21 117:13 118:16 119:21 120:4 120:11 121:2,7,12,16 121:19 122:11 123:4 124:1 125:2,19,20 128:3,10 130:21 132:11 133:15 134:6 135:3 136:15 137:9 146:12,14 148:17 153:13 158:18 162:15 163:16 165:3 165:6,7,12 166:12,21 167:4 169:19 170:16 172:5,10 174:4,11 175:9,13 181:5,8 182:4 183:1 184:18 185:3,10,11 186:1,4 186:5,15 187:2 188:8 189:20 195:15,21 197:3,20 199:14,21 200:10 201:8,11 202:3,11,14,19 205:5 207:13 210:7,16,17 211:7,16,19 212:6,15 213:2 214:1 215:4 216:12,13,16,17,19 217:8,9,11 218:1,2,7 218:19 219:11,20 220:3,13,16,17 221:7 221:8,15 223:1,6,7 223:15,16 224:8,13 225:9 233:4 234:8 236:20 238:16,17 240:12 242:15,20,21 244:12,13 245:10 247:6,17,18,21 248:2 248:12,19 249:7,16 249:19 250:2 252:17 252:18,20 253:2,21 256:2,20,21 258:5 261:8,19,20 262:10 262:11,20 273:12 274:8 275:3,6 277:12 277:15,16 279:9,21 280:4 282:7 286:13 287:8,13 288:8 290:7 293:10 CORRECTION 293:16 294:3 corrections 8:3,5 293:8 295:7,9 correctly 58:9 181:14 236:4 253:20 254:6 287:12 correlation 97:21 98:2 Council 5:10 252:15 269:5	counsel 5:16 21:12,13 66:11 79:12 111:11 168:19 194:15 292:7 292:12 count 198:20 counterintelligence 195:12 counterparts 208:5 Counter-Terrorism 88:8,16 country 153:12,18 204:14 couple 96:1,17 149:14 150:14 246:12 course 8:3 14:7 31:18 32:17 34:1 38:11 44:8 59:13 61:21 62:1,3 118:6 137:4 139:13 144:6 151:8 151:10 153:15,20,20 154:6,10,12 170:11 170:14 174:16 229:8 241:17 258:10 courses 82:15 154:4 court 1:2 12:4 81:5 292:1,2,18 cover 36:14,15 48:2 74:19 250:14 covered 23:1 101:6 152:5 160:6 176:17 covering 129:10,16 258:2 covers 248:11 co-op 264:7 co-opted 117:12 co-op'd 73:9 crack 255:17 256:2,9 craft 183:15,18 create 99:5,11 150:3 152:7 created 27:1 86:6 150:2 creating 150:5 creation 132:20 153:6 credentials 91:10 credibility 193:11 credible 163:5 189:15 248:9 credit 165:9 189:10 credited 151:16 crime 285:19 critical 62:17 63:1,6,8 63:8,9,10 criticism 63:12 187:19	criticizes 4:20 critics 227:12 critique 289:7 crossed 92:9 cross-fire 173:19 174:15 175:3 crowd 177:5,6 178:16 179:9 275:19 crowded 136:14 crosses 179:5 CSR 128:18 culpability 85:15 142:20 143:1 224:3 265:15 269:20 270:12,17,19 288:13 288:17 culpable 32:10 cumulative 110:15 current 162:9 Currently 6:18 curriculum 82:19 99:1 100:1 cut 148:1 152:11 216:15 CV 11:7 cyber 96:4,5,19 97:7 97:11,13,13,19,19 98:2,10,11,12 C-A-N-N-I-S-T-R-A... 194:20 C-A-R-M-O-N 190:2 190:10 C-H-A-I 201:18	D daily 182:7 Damages 40:16,17 danger 33:6 207:15 Dani 109:5 Darshan-Leitner 8:13 9:2,9 13:6 16:8 22:18 25:10 112:3 Darshan-Leitner's 12:15 dash 263:16 date 37:2 52:18 53:4 78:17,18 129:8,14 138:14 293:1,4,13 dated 3:8,17 7:7 112:6 254:9 dates 9:18 59:15,15 202:14 275:7 David 80:6 101:13	279:19 day 85:3 92:12,13 111:15,17 292:14 295:13 days 11:13 21:18 92:3 92:3 293:13 deal 84:4,5 159:19 231:6 265:16 dealing 151:4 deals 86:20 152:19 153:21 232:18,19 153:21 232:18,19 dealt 34:21 dean 122:17 152:7,10 death 130:20 132:11 182:13 189:3,12 deaths 272:14,20 debate 4:11 64:14,16 107:7 192:2 193:19 194:8 debating 64:9 Decade 4:16 decades 125:16 December 254:9 258:2 deception 192:14 decided 276:10 deciding 108:1 182:18 decisions 222:8 declaration 282:1 284:4,11,14,18 Declaring 7:17 deeply 133:8 Defendants 1:6 2:9 6:2 7:2 8:17 12:6,10 20:17 23:2 25:8 36:10 39:2 47:4 52:9 67:11 108:17 120:7 129:1 137:5 138:5 155:14 160:14 168:4 180:17 185:15 191:18,21 194:13 197:6 210:2 212:19 215:14 240:16 241:14 Department's 128:7 128:14 depends 19:10,14,16 71:2 184:4 204:5 227:19 228:4 248:5 255:4,4 268:18 278:2 278:3,3 deployment 86:21 Deponent 293:12,14 295:1 deposit 21:15,18 deposition 1:8 3:2 6:2 7:2 8:17 12:6,10 20:17 30:8,11 36:10 38:12 39:2 47:4 52:9 67:11 120:7 129:1 137:5 168:4 180:17 185:15 191:18 194:13 197:6 210:12 212:19 215:18
---	--	---	--	--

217:14 219:16 223:3	dictator 277:7	dishes 171:12	250:17 253:18	36:6,15,17,20,21
225:16 238:18	die 176:19	dishonesty 192:14	255:14	37:3,4,5 45:9,12 46:4
245:21 253:8 257:1	died 196:13	disingenuous 160:5	Dolphinarium 180:5	47:7,15,16,18 48:2,3
261:14 291:7,18	dies 170:7	disjointed 105:21	dominant 110:7	48:4,12,13,14,16,17
293:3,7 294:2	difference 122:4	dispatch 4:8 180:12,14	double-check 128:2	49:3,4 58:2
deputy 82:11 100:20	differences 72:12	disregard 285:15	editions 48:21 53:19	
derived 198:13	different 35:6 49:2	dissect 248:7	54:9,11	
describe 122:13 150:4	72:11 76:8 83:13,18	distinction 85:8	edits 14:20 15:12	
159:16 172:4 175:16	90:9 94:8 139:17	119:13 122:4	effectively 31:5 32:5	
176:12 187:8 203:8,9	147:10,11 197:16	distinctions 85:10	effects 82:20	
273:14 289:10	198:17 220:7,10,14	distinguish 165:13	effort 108:10 166:5	
described 93:14 106:2	226:13 230:20 232:3	Distorts 4:14	efforts 256:5	
137:14 149:19	269:13,19 270:3	DISTRICT 1:2,4	Egypt 95:1,3,21 96:13	
172:20	274:6	division 82:12 101:1	Egyptian 39:20 82:2	
describes 178:16	differentiate 84:21	doctorate 151:21	83:14 95:10	
209:18	85:4	document 7:3,8 12:5	Egyptians 82:16	
Describing 188:20	differentiation 72:9	12:14,19 15:8,10	either 10:2 28:2 44:3	
description 120:21	difficulty 24:14	21:1 22:13 27:5	45:18 75:1,9 78:6	
123:17 126:1 130:13	dig 178:9	29:17,18 31:17 39:11	81:9 87:7 92:4	
131:9,17,19 133:11	diligence 273:21	53:2 99:7,11 102:2	222:20 249:5 270:7	
201:4 248:2	274:11	108:18 109:3,4,12,14	electronic 291:14	
designated 125:5,11	diplomats 162:12	109:15,17,20 110:13	element 123:7	
202:2,18 203:12,14	direct 21:15,18 73:10	110:17 111:18	elements 65:13 126:6	
204:3 241:8 243:10	123:17 144:6,8,11,15	113:10,11 115:13,17	elevated 91:4	
267:12	206:18 262:1 264:8	120:13,18 121:1	ellipses 262:15	
designation 124:21	265:9,10 266:17,18	137:8,10,13,16,18,21	Email 4:11	
202:10 241:13	279:11	138:11 147:16,18,20	emanate 85:16	
desire 176:19 276:12	directed 81:12 143:4	148:16 155:1,15	emanates 40:5	
278:17	150:19	160:18,20 168:8	embarrassing 49:13	
desperate 279:2	directly 53:20 57:18	180:20 182:3 192:1,4	Embassies 208:5	
desperately 278:13	94:4 95:19 97:1	192:21 193:3 195:6	emblem 119:7	
destroy 266:19	183:8,19 205:12	197:9,12,19 198:3,9	embrace 117:19	
destroyed 255:16	231:21 239:18	199:2 205:21 211:15	embraced 250:18	
256:1,8	243:21 254:19 273:9	215:14 220:9 226:8	emerged 132:2 240:4	
destructive 282:3	director 10:12 34:2	227:17 228:8,10	243:11	
285:5	88:15	229:6 238:21 239:10	emotional 179:5	
detail 38:16 60:18	discipline 70:13 84:19	240:14 241:2 246:7	emphasis 230:20	
164:7	86:5,15 149:20 150:1	246:10,19 247:9	employed 171:3	
detailed 46:6 60:19	150:15 151:4,11,16	248:9,9 253:7,11,13	employment 123:10	
78:11	152:16 153:5,8 183:4	254:4,7,10,13,15,16	encompass 76:15	
Deter 40:18	265:7	257:4 258:13 259:5	encourage 82:20 225:5	
determination 125:4	disclaimer 123:3	259:14 260:6	226:16	
determine 198:18	disclosure 39:18	documents 13:1,21	encouraged 256:18	
249:13 250:1,3,11	discotheque 180:5	14:1 18:3,15 74:14	257:17 258:4 259:2	
detonated 136:13	discredit 184:12	102:11,13,15,18	encouraging 213:7	
138:17	discuss 86:10	103:5,8,11,16 106:11	ends 112:13 116:4	
Detractors 4:13	discussed 60:13 85:18	106:18 107:7,10	234:21 277:4	
develop 99:1 153:1	112:2 248:17 279:13	108:1 110:4 111:4	enemy 272:13	
265:15	discusses 102:2	112:4,19 113:6	enforcement 20:4 34:7	
developed 41:16 76:18	discussion 35:11 43:20	114:12,19,20 115:1,3	39:19 40:17	
243:9 270:14 271:17	69:13,19 82:20 89:3	115:10 120:15,16	engage 73:11 118:8,13	
288:16	89:8 91:11 96:19	162:3 165:14 229:5,7	123:13 143:5 170:10	
development 40:7 41:8	125:15 183:17 193:8	289:8,9,15,19 290:6	177:6,20 183:6	
41:14 42:2,12 44:5	193:9 230:2,8,18	document's 116:6	203:19,19 204:9,17	
45:17,21 60:12 84:15	235:17 236:14	doing 30:8 43:18 56:10	264:19 266:2,20	
86:4	289:14	65:6 73:21 100:13	285:19	
device 138:18	discussions 56:6 90:8	135:14 136:8 171:12	engaged 65:12 96:7	
devoted 153:12	93:17 99:18 271:14	171:13,15 213:7	139:21 260:19	

262:17 264:15	exception 40:14	explosives 110:10	falls 144:13 221:19	fellows 25:1
engagement 87:4	excerpts 36:3	extent 126:6 249:14	false 104:12 105:2	felt 28:18 167:8
engagements 19:6,9,13	excluded 78:6,8	250:1,4,11	163:2 284:17 285:9	fencing 253:15
engages 170:15 184:16	excuse 27:18 58:4	external 126:3,6	286:6	field 35:11 54:21 73:9
engaging 203:18	216:2 251:5 257:11	133:12	falsely 186:18	73:15 150:13,17
272:12 286:2	261:3	extra 151:12	Faluji 101:10	162:2,3
English 159:21 171:10	exerting 133:14 134:4	extraordinary 150:14	familiar 8:12 13:20	fight 253:18 255:14
enlightening 18:10	exhibit 6:2 8:17,20 9:8	extremely 194:6	54:15 132:13,16,18	fighters 164:6
ensure 116:15	12:5,6,10,13 13:1	277:21 278:8	132:19 151:15	figure 58:18 119:13
entire 66:15 82:7	18:20 20:17,20 27:6	extreme-right 195:20	156:10 158:20	129:21 201:3
168:20 169:3 176:21	36:10 39:2 46:20	extremism 40:5 72:7	164:13 190:1,11	figures 198:6,16 199:3
223:10	47:4 52:9,12 67:11	118:1	191:8 193:7 290:14	199:17 273:2
entirely 41:3	108:17 111:19	extremist 80:15	families 162:9	filed 81:4
entities 72:11	112:14 114:8 117:3	extremists 118:8	far 38:9,10 163:7	finances 288:7 289:4
entitled 68:20	120:7,10 129:1 137:5	e-mail 2:7,14 3:8,17	184:14 211:8 216:13	290:9
environment 44:11	138:5 154:19 155:14	9:1,4,6 10:5 12:1,15	216:17 232:17	financial 216:14
equation 43:19	160:14 168:4,7,20	13:16,19,21 14:2	Fatal 5:6 31:4 32:3,7	find 77:16 113:13
Errata 293:2,8,14	169:9 180:17 185:15	22:7,20,21 25:12	33:10 34:9 35:1,14	114:2,3 116:5 189:15
294:1 295:11	191:18,21 194:13	39:11,14 81:14 112:2	42:14,19 44:3,12	198:21 209:11
error 139:15 194:5	197:6 202:6 210:12	291:10,13	45:15 46:2,16 48:15	266:14
293:10	212:19 213:1 215:18	e-mails 8:15 15:1	49:1,9 57:16,18 60:9	finders 108:11
errors 53:20	217:14 219:16 223:3		60:14 61:1 63:19	finding 103:20 133:6
escape 143:20	225:16 238:18,21	F	67:21 68:15 69:3,9	161:16 177:20 212:4
ESQ 2:4,4,10,11,11	240:12 245:21 253:8	face 10:2 190:20	72:4 78:4 80:14,21	213:11 222:5 274:7
essentially 30:19 32:4	255:8 257:1 261:14	253:17	81:10 87:8 89:11,18	findings 56:7 74:17
87:3	exhibits 3:6 4:1 5:2,16	facilities 285:21	95:17 96:21 97:6	108:9 198:17 212:7
establish 142:21	exist 59:16 194:4 265:5	facility 24:21	99:19 100:11,16	213:18 215:11 216:4
establishes 206:4	existed 59:17	fact 32:2,7,19 51:20	110:7 112:20 113:7	216:5 220:8 266:10
establishing 132:6	expand 281:16	53:21 74:18 82:18	113:16 114:13 115:5	fine 67:6 148:9
et 1:1,5 293:5,5	expect 135:19 144:14	86:5 89:14 103:18,20	117:10 121:6,11,18	finish 66:17 99:9 272:2
evaluate 203:16	144:16,17,21 145:19	108:11 123:2 157:8	123:20 125:5 130:19	finishes 166:10
evaluation 164:16	183:2 265:6,8 266:16	177:20 208:10	132:1,3,10 139:20	firm 249:1
Evan 24:12	expected 231:7	213:11 222:5 224:10	140:10,13 141:2	firmly 134:10
event 11:21 97:3 145:4	expedited 291:9,15	227:4 241:7,13 274:7	142:7,10,14,18 143:2	first 6:6 9:9,11,16
179:16,17,19	expenses 19:2	experience 150:21	154:15 155:10	10:17 14:6 22:11,12
events 39:16 40:12	152:3 159:19 163:15	152:3 159:19 163:15	23:18 24:16 25:11	23:18 24:16 25:11
60:19 160:11	163:17 179:14	268:11	31:4,18 33:19 36:13	31:4,18 33:19 36:13
evidence 75:8 143:6	experiences 151:7	Factional 5:6	40:1 47:18 48:2	40:1 47:18 48:2
177:11 223:17 249:1	152:2 159:14,16	facts 5:8 245:9	49:11 50:16 51:17	49:11 50:16 51:17
evident 145:1	160:8 163:1 164:20	248:17 249:15	52:17 61:12 77:1	52:17 61:12 77:1
evolved 270:6	experimenting 50:21	250:13 256:18	Fatal 's 64:3 98:10	82:6 83:8 87:17 88:3
exact 198:18,20 249:13	expert 3:7,9,10 7:6	257:16 258:3	119:21 120:3 122:1	91:18 93:13 95:6,7
250:1,4,11	11:1 12:16,19 80:5	facts 76:19 108:9	Fatal-affiliated	95:20 96:17 97:3
exactly 8:4 9:17 20:11	162:2	142:21 198:15 214:3	263:10,16	102:1,7 104:9 109:21
24:11 27:4 46:6	expertise 70:12 84:13	214:5 216:7,9 222:8	Fa'iz 236:15	114:7 117:9,9 130:15
60:21 73:21 77:6	84:16 85:3 144:13	273:7,15 274:1	FBI 34:6 59:21 60:7,15	131:4,16 149:14
111:14 171:4 177:1	270:13 271:18	293:11	61:8 63:13 69:11	150:1,11 156:14
208:12 228:14	experts 162:11 271:15	factual 115:18 215:11	February 164:2	157:18 161:21
examination 3:4 6:6,9	explain 206:3	216:4,5	218:18 236:21	168:17 169:8 174:3
162:3 292:8	explaining 187:1	factually 251:11	Federal 59:21	179:21 186:7 194:18
examined 6:7 31:20	explanation 188:3	faculty 152:6	fee 19:4,8 20:12 22:10	199:4 210:9 220:20
292:6 295:3	exploit 136:4	failed 253:16	23:19 25:8	221:13 222:21
example 35:6 42:9	exploitation 135:21	fair 47:15 153:10	feeders 147:9	224:16 229:17 239:4
44:10 69:16 98:15	exploited 133:13	163:12 220:12	feel 295:10	249:11,11 253:14
126:18 171:9 184:6,7	exploiting 134:13	232:14 248:8	fees 18:21	257:20 261:17
210:9 218:5 258:7,17	explosive 138:18	faith 232:13	feet 281:6	270:20 275:18
259:13,20 265:13		fall 35:5	fellow 24:9,12 91:6	277:11
266:3 270:8		falling 32:21	154:2	fiscal 220:10

fit 28:7 70:11	foreign 5:10 102:9	272:1,8	given 8:2 20:3 269:4	159:18 230:20 279:3
fits 17:15 43:18 72:3	125:1,6,12 127:3	Ft 150:19	295:6	289:21
181:17	136:21 148:16,19,21	fueled 33:7	giving 188:2 225:13	greater 76:12
five 11:10 64:19,21	149:4,7 162:12 202:2	full 23:15 31:11 39:17	227:13 233:7 270:13	ground 151:18 281:5
67:3,7 194:4	202:18 204:3 240:16	50:16 51:17 102:1	274:13	283:11
five-minute 274:15	241:8 243:11 252:16	157:15,19 169:9	gleaned 39:21	group 50:19 76:11
fixed 78:17	267:12	179:21 220:20	Glen 6:18 236:1	139:14,21 140:11,14
flag 119:6	forged 107:20	225:13 226:1,2 233:8	290:10	150:8,12,19 158:20
flat 23:19	forgery 182:14	233:14 257:20	Global 138:8 217:21	201:18,21 217:5
fluctuates 280:14	forgive 88:4 190:12	fully 32:18 219:13	globe 39:20 82:1	263:9
focal 167:3	forgot 275:18 276:6,7	full-time 11:11	glorifying 143:18	groups 4:2 5:11 35:8
focused 33:9 87:3,6	276:9	function 45:19 135:18	go 25:1 48:5 52:20	40:9 44:6 84:14,16
210:5	form 31:8 76:5 105:20	251:19	58:6 60:11,17 61:10	84:17 86:5,10 139:17
focuses 43:13	107:11 132:17 200:9	funding 288:21 289:2	61:11 74:10 84:15	140:8 142:10 143:19
folks 85:12	259:16 260:3 267:10	289:4	98:14 109:20 111:19	144:18 162:8 183:6
follow 113:4 131:1	290:17	funds 85:17 133:14	122:19 127:13 142:4	244:21 256:13
279:12	formally 238:13	funeral 147:6 148:2	146:4 149:13 150:6	260:18 262:4,17
followed 221:1	239:14	further 33:3 110:6	151:1 152:5 154:19	263:4,8,15 268:15
following 40:14 231:1	formation 249:3	futile 51:20	163:20 183:20	269:18 270:6
232:18 295:4	formed 268:9	F-A-apostrophe-I-Z	227:20 229:7 230:18	Guardian 191:8,11
follows 6:8	former 162:10 195:12	236:16	231:21 232:8 240:21	guess 34:19 37:10 63:5
font 148:5	forming 108:2 162:16	G	245:16 253:7 290:19	65:11 70:15 91:15,16
footnote 14:8 16:14,17	forth 31:13 33:20	G 83:6	goal 240:7 242:1 243:5	118:11 127:14
16:19 17:5,13,16	213:21	Ganor 88:8,14	244:5	152:13 232:20
18:18 52:1,3,5 53:8,8	fortiori 207:7	gas 110:10	goals 71:5 141:4,6,7	269:20
53:17 54:1,9,10,12	found 18:10 103:20	gather 94:7 214:3	225:7	guilt 203:5
58:4,6,10 77:7	116:20 127:20	222:7,8	goes 250:3 277:10	Giora 88:10,12
101:14,16,20 110:11	177:19 248:8 256:17	gathered 222:16	going 7:1 11:12 15:14	gun 115:11
112:13 116:4 120:14	257:16 273:8	gathering 273:6,14,21	33:18 36:3 37:8 39:5	guns 110:10 279:12
136:20 137:8,11,20	founded 32:7 160:2	Gaza 92:5,8,9 132:6	46:18 66:20 75:4	guy's 135:8
138:2 146:2,11	263:18 270:15	162:6 215:9	108:16 130:2 144:1	G-U-I-E-O-R-A 88:12
155:11,16 164:1	271:17	GBD 1:6	155:13 160:13 161:3	H
166:16 168:8,14,15	founder 10:12 263:12	general 82:10 126:21	168:2,3 176:2 194:1	H 4:18
182:6,15,17 185:19	four 27:14 59:20 82:14	136:2 164:4 214:2,9	194:17 207:8 211:13	habit 15:18 98:8
197:4,10,13 200:3	99:4 102:8 109:14	222:9,11 225:10	232:10 245:13	207:21
206:1,6 217:5 219:11	257:20 277:14	227:16 242:7 243:1	266:14	half 61:15,19 152:1
221:4 226:4,6,21	fourth 255:12 281:21	generalized 41:10,11	good 6:11,12 14:15	halt 210:3
227:21 228:11,12	Fox 64:8,11,20 65:1,5	55:4,13	18:5,6 56:3 98:8	Hamas 5:6 42:19
229:18 234:9 239:1	frame 33:5,13,14	133:4 227:21 228:7	182:1 250:17 291:6	50:18 61:1 72:10,14
239:11,21 240:7,10	87:14	233:19 259:10	Google 152:14 205:16	126:19 166:21
240:18 242:1 246:19	framework 34:18 35:3	280:13	Googled 146:20	169:18 203:7,11
252:16 253:1,6 254:3	70:11,15,16,19 84:18	genocide 286:2	governed 87:4	262:5 263:20 264:13
254:18 255:1,2,5,10	85:7 144:13 153:5	gentleman 157:11	government 70:17	264:15,18
255:18 257:5,9	Frank 6:15	194:19	93:13 95:11 96:12	hand 21:8 40:1 46:18
258:15,16	frankly 66:1	German 181:7,21	104:6,9,10,14 106:3	137:2 144:18,19
footnotes 14:7,9 16:2	freedom 123:8	182:1,10	125:17 144:14 160:4	168:3 227:5 228:20
16:10 17:9,12 23:9	French 96:9	gestures 118:12	163:5,7 165:9,11	250:19 280:13
54:11 58:16 108:19	frenzied 178:17 179:6	getting 66:3	190:19,20,21 191:3	292:14 295:12
161:10 248:4 253:12	179:11	GIS 164:4	196:19 237:9 264:14	handed 147:13 168:18
287:11	Friedman 195:5	give 21:9 24:8 27:12	267:6	169:10
force 82:6 203:6	front 15:2 35:20	51:18 63:21 108:13	handing 138:5	
235:17 236:4,9,12,14	111:20 138:1 147:14	164:18 165:15 171:9	happen 43:8	
238:2 240:8 242:2	148:13,15 169:1	184:5,13,14 190:13	happy 25:14	
243:6,13 261:7	198:3 202:7 219:19	192:17 266:3 269:2	hard 14:9 64:7 144:11	
forces 100:5 150:8,12	229:6 233:9 246:16	290:4	270:11 291:11,12	
150:17,19 173:20	254:8 257:7 262:7,8		harmful 97:13	
255:16 256:1,8 273:9	262:9 268:13 269:1,7		harmony 276:13	
foregoing 7:18 295:3	269:8,11,15 270:3,21			

Hassan 68:1
Havens 5:9
head 73:5 130:20
 132:10 164:3 195:12
 251:9,19,21 271:21
 272:5
headed 271:16
header 29:15 148:15
heading 126:3 131:8
 192:8
headquarters 62:2
heads 64:18 263:18
heard 10:10 26:1,3
 106:14,16 107:6
 158:15 172:12,16
 187:12 189:6,13
 191:6 195:10 201:21
 290:12,13
held 1:10 91:2 93:4
help 114:3
helped 150:3
helplessness 256:6
heroes 174:1
heroic 180:7
Herzliya 88:7,16
Hezbollah 236:17
 237:2,3,7,8,14,18,20
 238:1,7
hierarchy 85:15
high 64:9 236:17 237:2
 238:6
higher 62:2
highlight 18:13
highlighted 137:21
highlighters 30:3,4
highly 277:5
Hill 2:11 3:17 39:12
 81:15
historian 41:14,19
historical 40:7 41:8
 42:1,12 44:5 45:17
 45:20 60:11 84:14
 86:4 223:21
history 11:21 40:2
 41:17,20 234:12
 270:11,14 271:15
Hizballah 126:5,19
hold 116:14 205:1
holding 120:10 144:19
 198:3
holy 167:13 282:4
 283:20 285:6 286:3
home 6:17
homework 214:13
honestly 90:4
hope 224:15
horrific 240:6 241:5
 241:15

hostilities 87:2
Hotel 95:8
hour 19:2 23:4 66:21
hourly 19:8
hours 23:16 24:2 124:9
House 210:9,21 212:10
 213:1 215:3 216:2,18
 217:8 219:1 220:1
 221:6,9 273:15
 274:12
human 158:21 159:7,9
 159:11 160:4,6,8,16
 162:4,7 163:1,3,13
 163:13 164:19,21
 165:17
hundred 11:8,9 67:14
 67:15,18 261:2,5
hundreds 32:14 58:15
 58:16 75:6,14 89:21
 89:21 90:1,1,1
 273:10
husband 4:9 186:13,19
 187:3
Hussein 81:13
H.R 4:17,19 210:18

I

ICT 88:8
Id 240:19 242:10
idea 13:12 26:12
 181:13 198:7,13
 281:18 291:6
identical 220:1,5
identification 6:3 8:18
 12:7,11 20:18 36:11
 39:3 47:5 52:10
 67:13 120:8 129:2
 137:6 168:5 180:18
 185:16 191:19
 194:14 197:7 210:13
 212:20 215:19
 217:15 219:17 223:4
 225:17 238:19 246:1
 253:9 257:2 261:15
identified 11:17
 156:17
identifies 262:5
identify 27:11 29:12
 32:21 35:15,18 44:1
 45:13 69:8 145:10
identifying 87:6 212:8
ideological 153:2
ideologically 130:18
 132:9
ideology 71:17 233:1
IDF 39:20 82:2,5,5
 85:12
idiom 277:9

illegal 43:11 256:19
 257:17 259:2,7,8,19
 285:10,18,18 287:5,8
Imad 236:15
imagine 25:16 37:1
 75:5 141:16
Imams 230:20 231:15
immediately 210:4
impact 144:1
implication 286:1
implicit 218:12
impossible 59:8
impression 38:6
inaccurate 41:4
 221:15
incident 27:18 65:5
 145:21 146:1,18,21
 147:2
incidents 34:14,17
incite 117:20 118:13
 144:17 174:18,19
 175:18 176:3 177:5
 177:16 183:13,18
 266:12 283:13
incited 264:18 266:2
incitement 184:9
 275:19
incites 143:19 283:13
inciting 184:2 286:5
include 34:6 39:20
 69:18 79:6 82:1
 94:20 154:12 203:1
 244:18 249:5 258:6
 258:10,19 259:6
 262:12 275:12
 276:14
included 34:16 66:13
 158:17 169:13 172:1
 215:11 216:4 238:5
 245:6 256:6 259:10
includes 45:14 46:1
 143:12 173:11 213:5
 240:3
including 138:19
 180:4 261:6 286:9
income 206:17
inconsistent 284:11
incorporate 167:11
incorporated 15:3,9
incorrect 251:11 263:9
increase 78:12 134:1
 134:21
increasing 98:3
independent 103:4
 126:14 127:4,7,17
 182:4
independently 166:7
index 49:7,17 50:9

51:10 58:2
indicate 115:10 242:10
 244:21 293:9
indicated 58:21 73:19
 124:6 159:18 165:16
 167:10 183:16
 232:17 235:1 236:4
indicates 31:20 47:14
 55:4 139:6 174:18
 237:10 239:6 244:17
 285:15
indicating 284:16
indication 175:5 218:9
indirect 94:9
indirectly 94:5 97:2,5
indistinguishable 31:6
 32:5
individual 10:1 115:13
 179:15 200:10
 204:18 237:10
individually 235:5
individuals 9:14 44:10
 167:9,19 170:12
 174:18,20 177:5
 193:19 197:17 201:8
 205:11 222:7 231:2
 232:9,11 236:5
individual's 238:6
infer 184:2
inferred 218:13
infidels 170:14
inflammatory 284:17
inflicted 272:14,20
influence 94:6,9 126:6
 133:14 134:2,5,18
 135:1 136:6
influencing 244:4
information 39:21
 52:1 53:16 59:9 76:9
 94:7 108:12 126:13
 147:19,20 193:18
 214:5,6 222:7,12,13
 222:15,18 238:3
 249:13 250:10
infra 228:4
ingredient 170:18
initial 25:17 29:1
 71:13 75:1 76:21
 77:2,3,4,4,9 100:3
 104:12 105:3 106:7
 108:19 126:16 127:6
 127:15 132:14 166:9
 244:10
initially 10:4
injured 146:10
injuring 136:15
ink 14:13
innocent 32:16 196:13

27:19 31:7 32:11,12 33:7,11 34:10 35:1 46:3,16 60:9,14 63:19 64:4 67:21 68:15,21 69:4,10 72:1 78:5 80:14 81:1 81:11 84:4 89:11,18 95:18 96:21 97:6,15 99:20 100:12,17,18 117:10 132:3 154:17 160:11 185:10 187:2 187:7,11 188:4 196:8 203:3 206:5 210:4 217:8 218:7,11 240:5 240:7 243:12 277:15 280:3,7,17 281:5	introduced 190:6 210:20 220:13	isolate 219:2 Israel 38:7 43:4 53:16 83:9 87:12,13,15,18 88:17 89:14 90:2 92:1 93:17 97:11 104:15 105:13 132:5 148:16,19,21 149:5 160:9 162:5 164:2,12 182:13 188:7,14 189:2,11 190:5 203:7 206:16,18 207:16 240:8 242:2 243:6,13 251:6 256:20 257:18 258:5 259:3,17,19	israeli 32:12 43:14,16 50:17 51:1 64:13 65:7,9 82:6 83:6,14 85:12 102:3,8 104:6 104:14 106:3 110:5 113:18,21 132:4 136:21 162:10 163:5 163:6 165:9,10 173:19 180:6 190:19 191:3 196:11,19 197:5 204:2,21 255:16 256:1,7 282:1 282:4 285:9 286:19 289:9	israelis 32:15,20 74:15 82:16 92:16,19,21 97:20 104:3 190:19 260:21 272:15 273:11 283:7	israel's 165:6	issue 11:18 22:1,1 26:4 26:6 28:10,16,18 43:21 44:9 69:3 73:7 74:10 75:5 84:13 118:2,3 127:1,2 148:8 153:21 167:8,9 178:13 187:5 193:21 194:9 205:13,15 207:3 288:14	issued 207:11 258:11 issues 42:10 80:13 83:1 85:18 151:7 152:8 160:6 194:9 270:16	italics 40:11 items 192:14 I-M-A-D 236:15 I-N-D-E-X 3:1 4:1 5:1 i.e 231:12	J	Jaddicott@stmaryt...	9:5 JAG 100:9 150:9,12 150:16 151:2 Janet 62:17 63:1,6 January 52:6 Jean-Francois 106:15 Jefferies 1:13 292:2,17 Jeffrey 1:9 3:2,7 6:5 6:15 245:18 293:3 294:2 295:15 Jerusalem 4:5 136:14 138:17 143:18 167:2 167:11,20 169:11 183:17 185:12 206:8 206:16 282:5,10,13 283:1,18	Jewish 217:21 261:6 282:15,17 Jews 173:20 206:18 283:21 284:9	jihad 72:2 118:6 138:21 139:13 140:3 140:11 141:1,12 142:6,13,18 143:7,11 143:18 144:4,10 145:6,15 170:1,8,9 229:16,16,16,16 230:12,14 231:3,19 232:15 235:2,4,5 262:8 266:6 279:13 279:13,14	Jihad's 139:4	job 100:14 John 151:13 152:10 join 115:16 264:14	journal 40:20 57:3,5,6 94:16,17	judge 82:10 96:13 judgmency 231:9,21 Judgments 40:18 Judiciary 211:4 July 4:8 21:5 101:14 June 182:8,8 245:18 258:3	justification 71:21 203:5	justified 203:10 justify 286:6 justifying 290:2	K	Kahane 201:11,13,15 201:18 202:1,15 Kalman 156:6	keeping 98:8 KENT 2:4 Kentucky 57:6 94:16 Kent.yalowitz@apo... 2:7 kept 98:13 kill 170:17,19 200:8 213:15,20 214:2 216:13,14,17 218:3 225:12 228:19 229:20 230:9 233:6 233:14,16 235:13 237:16,20 251:11 255:6 264:8,12,14,16 267:5 269:3 270:1,8 270:20 271:1 275:7 281:11,20 282:14 283:12,13 284:17 286:21	label 203:17 labeled 18:2 labor 23:12 lack 95:13 133:13 134:5,9,13 135:21 land 282:3,5 283:2,8 283:20 285:6 286:4 language 35:18 40:10 121:3 128:18 171:10 206:15 213:5 226:18 226:20 241:18 242:16 261:18 263:3 281:3,11 282:18 283:3,12,13 284:17 286:21
--	-----------------------------------	---	---	---	----------------	--	---	--	---	----------------------	---	---	---	---------------	---	------------------------------------	--	------------------------------	---	---	--	---	--

languages 73:21
Laredo 19:20 20:5
large 180:6
largely 192:15
larger 20:3 140:18
194:10
late 233:13
latest 98:12
latitude 279:3
Laughter 20:16
launch 28:8
law 3:13,13,15,15 9:6
10:11,13 11:11 20:4
23:6 24:10,10,18
34:2,3,4,7 36:1 39:18
40:2,15,20 45:9,13
55:5,6,12,14,15
56:12,14,20 57:2,4
57:12,13,14 58:3,13
58:17 82:12 83:3
86:6,17 88:10 94:16
94:17 100:21 104:16
122:11 127:2 149:20
150:7 151:3,14,17,19
152:6,12,14,19 153:8
153:11,13,14,15,17
153:17 154:4,6,7,7
154:10 183:5 265:8
286:13 292:6
lawful 200:6
laws 151:13
lawyers 79:21 86:13
86:14 150:12
leader 143:20 201:18
250:18 276:20
leaders 249:1 250:5
255:13 267:1,4
leadership 33:8 130:17
131:15 132:7 133:13
134:5,8,9,13 135:21
213:6 241:11 252:1
leading 156:15
leads 176:13 281:1
leave 200:16 250:6
262:14
Lebanon 237:21
lecture 59:20 60:3 89:4
89:16
lectured 60:7
lecturer 34:4
lectures 34:15 60:15
61:10
lecturing 34:1 61:7
led 32:6 65:5 213:21
241:14 267:7
left 100:9 276:17,19
287:1
legacy 226:12 227:7,10

legal 43:11 70:12,13
70:16,19 82:14 86:20
100:4,8 123:19
142:19,21 152:8,16
legality 43:3,14,16
86:12
legislation 212:14
221:2,10,14,16
legislative 258:21
legitimate 251:8,15,18
252:6,10
Legrain 106:15
Legs 211:21
Leitner 25:19 26:8
length 289:10,21
lengthy 236:10
letter 181:19 182:2,11
182:14 285:12
let's 28:5 29:11 44:13
44:16 45:21 47:3
48:4 53:7,8 56:13,20
67:6 68:11 76:21
85:9 97:4 101:8
111:19 127:15
131:19 142:4 154:19
161:12 171:21 184:7
189:18 195:5 198:10
204:6 223:2 224:19
226:7 229:10 230:12
240:13 245:20 252:9
253:7 257:11 284:3
287:18
level 144:5
Levitt 4:7 166:12
230:3,4 276:3
Levitt's 168:20 172:8
Lewis 150:19
Lexis 205:16
Liberation 1:4 86:1
241:10 262:7,8,10
268:13 269:1,7,8,11
269:15 270:3,21
272:1,7 293:5
Libya 151:8
life 213:9 231:11 232:5
lifted 113:20 115:20
Likud 195:20
limit 78:14
line 11:3 78:1 101:10
223:14 224:14
255:12,12 260:16
272:10 293:16 294:3
lines 27:14 51:17 102:7
257:20
link 123:18 264:8,9
265:18 268:12,20
linkage 60:18 86:11
265:9

links 60:17,20 74:16
144:6,8,11 264:10
265:1,12 266:17
268:17 269:14,17,19
list 44:16,21 45:7
51:19 61:9 65:21
66:3,6,8,11,13,16
68:2,6 69:7,14 99:14
200:9 201:7 202:5
203:2 204:4 233:11
240:16 244:19 245:1
245:2 258:11 263:4
275:2,13 278:6
listed 17:9 45:12 50:8
50:9 55:11 62:5
202:7,16 265:5
293:14 295:10
listeners 283:15
listing 244:17
lists 198:9
litany 107:17,19
literally 88:4 231:17
literature 74:11 231:3
litigation 66:12
little 38:1 133:10 213:7
255:15
live 207:6,7,8 231:11
232:5 283:1
lived 95:1 98:17,18
lives 32:13,16 38:7
LLP 2:5
localized 131:21
locate 16:13,16,19
17:4,16 101:17 166:6
located 88:16 204:14
237:20
locating 24:14
logical 286:4
lone 152:21
long 11:5 35:8 36:8
49:5 54:6 61:7 64:15
64:16 66:10 92:1,11
93:7 131:17 187:18
193:6 213:8 219:6
226:2,11 227:7,10
Longer 4:12
look 9:14,17 10:21
13:9 14:9 15:4 23:7
28:1,4,5 35:3,16,17
42:5 43:20 49:4,7,13
52:3 54:6 55:8 58:13
61:9 63:16 69:13
70:14,17,18 76:8
84:1 92:17 99:21
105:3 106:21 107:4
108:21 110:16 114:5
114:21 117:1 128:1
130:15 131:14 136:3

138:13 140:5 141:8
147:13 148:10 152:8
155:1 156:14 166:2,4
169:8 176:21 179:2
184:5,20 192:20
193:17 194:11
198:10,14 202:6
215:13 220:18 236:8
239:8 244:16 246:3
247:14 248:3,6
257:13 266:5,7
267:11,16 279:6,10
280:19
looked 11:7 14:3,7
16:5 40:21 48:19
66:9 84:12 128:17,18
128:19 141:15,17,20
142:2,3 146:13
199:13 201:2 241:2
287:20
looking 8:3 9:8 12:1,13
20:15 26:13 28:9
29:17 30:14 32:9
33:12 43:10,15 45:16
49:10 52:12,19 60:18
68:2,6 69:7 84:16
85:2,14 111:17
120:15 135:17 142:8
168:13,15 176:15,17
192:1 202:4 235:3
246:4 259:4 269:14
272:11 278:5 288:15
288:17
looks 13:20 18:17 28:6
59:1 131:16 152:21
153:5 168:10 246:8
254:14
loss 213:9
lost 32:16
lot 11:11 15:19 24:3
25:16 54:11 55:15
57:4 63:10 67:16
68:19 74:11,14 76:8
76:16 83:13 87:20
88:5 108:10 124:9
126:18 142:3 152:3
184:6 190:5,6 198:15
223:20,21 264:1
276:11 290:19
lots 56:1 72:20 205:17
lowest 167:2,6,16
loyal 130:18 131:21
132:9
Luminoso 159:20,21
lunch 208:14
Luncheon 208:18
L-U-M-I-N-O-S-O
159:21

M
MACHNES 2:4
Magazine 52:5 128:1
225:8
Magen 147:5 148:5
mail 22:20
main 10:20 32:3 55:9
139:19 221:19 232:3
232:16,21 233:1
mainstream 127:21
137:4 146:21 187:17
191:15 231:3
maintain 125:18
253:17 281:16
major 206:17
majority 39:7,15 154:8
213:17 269:18
making 108:9 116:17
164:12 274:10
maligned 190:20
man 124:9 250:19
mannerisms 118:13
March 3:8 4:5 7:7,11
9:18 12:15 15:7
27:21 45:3 68:3,7
77:15 112:6,8 116:7
116:12,13 133:6
136:12 137:13,18
138:14 139:5 209:10
marching 169:11
mark 1:1 8:16 12:5
30:7,10 36:9 39:1
46:21 47:3 52:8
116:1 120:6 128:20
180:16 191:17
212:18 217:13
219:15 245:13,20
261:13 293:5
marked 3:6 7:2 8:18
12:7,11 13:17 20:13
20:18 22:13 30:1
36:11 39:3 47:5
52:10 67:9,12 108:17
109:18 116:6 120:8
129:2 130:5 137:2,6
138:6 147:14 155:14
160:14 168:5 180:18
185:16 191:19
194:14 197:7 210:13
211:13 212:20
215:16,19 217:15
219:17 223:4 225:17
238:19 239:9 246:1
253:9 257:2 261:15
markings 30:2
Marriott 95:8
martyr 144:7 170:3,6
170:7,15,18,21 171:6

171:16,18 172:4	219:8 223:11 226:9	218:16 290:11,18	morning 6:11,12 124:8	153:19 154:5,6 251:7
173:17 174:10	227:18 231:4,10	162:14	230:2	269:4
175:12,15,21 176:19	255:1 271:9 289:18	methodology 159:15	mortar 280:15	nationals 204:21 212:5
184:8 230:3,6,7	meaning 96:5 279:16	methods 260:20	mosaic 17:15	nations 40:18 159:9
240:4	meanings 232:3,4	262:18	Motif 143:18	191:1 203:20
martyrdom 72:2	279:14	meticulous 15:16	motivate 72:7,15	nature 10:16 91:8
117:19 118:4 143:19	means 123:10 129:9	Michael 53:18 58:3,21	motivated 35:4	144:12 204:17
167:21 177:7 180:8	204:11 225:6 284:20	mid 233:12	motivates 71:17 85:16	276:14 277:6,19
182:12	285:14	middle 41:5 82:18	118:8	288:15
martyred 171:11	meant 18:11 225:10	83:15 136:14 138:13	motivation 71:16 86:9	Naveh 109:5
martyrs 61:1 112:21	227:21 239:11,21	172:9,20 173:11,12	117:20	near 5:11 130:2 256:13
113:8 117:11 119:21	273:14 283:13	173:13 218:17 219:7	motivations 73:10	nearly 110:8
120:21 121:11,19,21	mechanics 213:14	241:11	motive 186:18 188:2	necessarily 119:6
123:20 124:21 126:2	mechanism 72:7	militant 50:19 263:15	mount 33:4	268:3 280:11
128:6,15 130:10,13	media 3:20 10:15 11:9	militants 162:13	move 56:14	necessary 234:21
131:10,20 132:20	39:16 40:12 63:15,17	military 24:7,8 39:19	moved 116:7	295:10
134:12 136:12	64:3 65:21 66:2	39:20 81:21 82:2,14	movement 132:1	need 67:4 74:7 206:6
139:14 140:4 146:9	67:18,19 68:7 74:19	83:10 86:13,14 87:16	Mreinhard@milche...	254:7 285:13 291:13
146:17 157:9 169:11	137:4 138:21 143:16	93:1 102:3 110:5	2:15	291:14,15
173:21 202:10 240:3	143:17 145:13 147:1	132:4	MSNBC 64:20	negotiate 278:14
241:4 243:5,10,19	172:9,20 178:9,11,12	militia 244:8 245:5	Mughniyah 236:16	negotiations 279:19
248:12,15 262:6	178:13 185:2 187:17	militias 131:21	Mughniyah's 237:1	neighborhood 4:5
263:10,17 270:8	187:17 191:16	militia-type 243:9	Muhammad 173:18	networks 145:13
Marxist 160:1	192:17 287:12	Miller 1:11 2:12	174:10,13 175:5	never 10:1 26:11 38:7
Mary's 9:5 34:3	medium 187:16	million 169:11	murder 80:12 117:21	62:19 87:15 109:7
122:10,21 123:4,10	meet 285:3	mind 28:13 29:10 67:1	225:6 226:17 230:5	149:9 150:12 157:2
152:6 153:9	meeting 21:10 83:11	77:17 143:1 172:3	273:10	158:15 171:19,20
Maslama 156:17 157:1	meetings 83:13 93:12	242:12 284:19 285:1	murdered 189:14	173:2 179:18 189:19
157:13 164:5,15	members 108:12 147:6	mindset 237:10	197:17	201:16 211:6 216:11
Massachusetts 40:20	148:2 162:8 210:21	minimum 144:5 285:3	Muslim 231:7	217:3 220:16 282:11
master 250:16	213:19 214:20	Minister 109:9 136:21	M-A-S-L-A-M-A	290:11,13,18
master's 151:19	282:17	148:21	156:18	Nevertheless 27:16
match 59:15,15	membership 61:3,3	ministries 190:5	M-U-G-H-N-I-Y-A-H	new 1:4 2:6 5:6 36:21
matches 246:4	282:14	Ministry 102:9 148:16	236:16	37:3 45:6,8,12
material 76:13	memo 164:2,3,7,12,13	148:19 149:3,7	<hr/>	125:19 150:9,15
materials 16:2,9,13	164:14 165:2,4,6,17	minute 192:20	N	151:1,4 168:1
24:5,15,20 45:10	165:18,19,20,21	minutes 64:19,21	Nabil 158:4	news 64:8,11,20 65:1,5
48:15 138:2 266:14	166:6	66:21 67:3	name 6:13 8:9,15 10:3	146:16 147:9,10
math 199:5,12,14,18	memory 88:6 125:14	missing 147:19,21	10:15 13:19 26:1	217:21 218:9
200:18	Memri 4:8,12 172:13	247:6	64:10 73:4 83:4,5,6,7	newspaper 163:8
matter 19:1,11 22:5	172:18 174:4 180:11	missions 162:5	96:15 106:16 107:3,4	187:17 191:9,11
82:18 142:15	181:2,7,13,21 182:6	mistake 137:19 138:1	118:14 139:12 149:6	newspapers 147:1,11
matters 162:17 214:11	186:6 189:19 190:14	138:4	154:2 156:10,19,21	NGO 159:3,4,13
Matthew 2:11 4:7	191:2 192:11 193:12	misuse 71:20	190:9,11 191:6	Nidal 262:5 265:2,19
156:6 166:12 230:4	195:17 196:3	mitzvah 146:10	195:10 201:20 203:1	266:15 267:1,9
May-June 162:6	MEMRI's 193:10	moderator 65:2	224:10,13,14,16	night 93:8
mean 10:20 16:5,20	men 219:2	modus 184:15 237:11	231:19 264:10 270:3	nine 44:21 45:11 51:17
17:10,14 26:6 27:5	mention 46:5 69:12	266:17	274:12	261:2,5
28:8 34:13 35:17	212:1 236:13	Mohammed 96:10	named 8:12 25:19	Nitsana 8:13 22:9,9,17
41:12 43:8,15 44:5,7	mentioned 34:20	moment 108:21	106:14 190:1 194:19	112:3
55:18 60:11,11 73:6	37:12,13,19 38:2	245:15	names 81:7 93:2,19	Nobel 227:4
86:18 91:17 94:8	40:9 42:7 62:19	money 22:8 23:18	261:21 267:4 269:19	nonprofit 23:7
97:13 116:12 119:4	128:6 182:21 184:17	110:10	274:1	Non-Governmental
124:10 127:7 139:15	mentions 49:8	month 11:9,10 67:14	Napolitano 62:18 63:2	159:6
139:16 167:6 170:17	merely 140:8	months 22:1:1	63:6	non-Jews 283:19
184:6,13 190:18	met 8:14 10:1 38:7	Moore 151:14	nation 173:21	nope 49:16
207:6,21 208:4	83:2,8 109:7 157:2	moral 231:12 232:4,18	national 57:6 84:19	normal 284:19 285:10
213:17 218:21 219:4	171:19 201:16	235:5	151:13,16 152:18	North 154:1

Norton 151:14
notarized 7:15
note 33:3 293:8
notebook 147:17 246:5
noted 18:16 95:1
notes 20:10 88:6 90:4
 98:6,7 161:3 226:3
 229:9 233:17 235:15
 267:11,16,17,19,20
 267:21 268:4,4,6
 269:3
notice 48:1 55:15
 233:12 254:9
notify 57:10
notifying 204:13
number 6:2,20 8:17
 12:6,10 16:17 17:13
 20:17 36:10 39:2,6
 47:4 52:9 62:6 63:21
 70:1 81:17 102:13
 110:1,2,16 114:5
 120:7 121:5 129:1
 137:5 146:14 168:4
 180:6,17 185:15
 191:18 194:13 197:6
 197:13,17 198:2,7,13
 198:17,18 199:8,11
 200:9 201:7 207:9
 209:18 210:12
 212:19 215:18
 217:14 219:16 223:3
 225:16 227:21
 238:18 239:1 245:21
 253:8 257:1 261:14
 272:20 279:17
numbers 67:12 200:19
numerous 34:5 126:4
 126:10 143:10
 146:21 180:4 258:18
 266:7 271:13
NY 2:6
N-A-V-E-H 109:6
N-I-D-A-L 262:6
N.W 1:12 2:12

O

Obama 63:9
object 31:8 76:5
 105:20 107:11
 132:17 148:6 259:16
 260:3 284:20 290:17
Objection 38:20 48:10
 76:6 79:8 80:1
 115:15 119:15 234:5
 260:7 261:1
objective 225:4 226:15
 229:1
obligation 232:8

obligations 231:6
 232:18
Obscure 4:12
observations 40:1
obtain 17:21 102:21
obtained 103:1
obvious 242:11 259:17
obviously 15:2 28:7
 29:7,21 34:13 39:7
 39:15 42:17 57:9,19
 58:14 76:13 84:4
 94:6 100:2,10 114:19
 116:6,14 118:3 134:1
 134:19 153:16
 165:17 178:8 200:7
 205:14 207:11 219:5
 225:11 242:17 283:6
 283:10 284:19
occasion 92:14 96:2
occasions 43:1 95:5
 266:7
occupation 243:14
 287:5
occupy 283:2
occupying 283:7
occur 53:20
occurred 15:5 35:8
 46:7,7 100:19 150:15
 214:18
October 1:10 3:3
 292:15 293:1,4
ODS 289:15 290:6
offense 231:14 232:12
offensive 232:8 278:16
offer 91:10
offered 30:19
office 8:10 169:2
 247:13 267:21
officer 150:10
officers 82:14,15,17
 83:1,2,14,14,15,17
 93:1,5 150:16 162:10
offices 102:2 110:5
 125:18
official 64:9 96:12
officials 20:5 93:13
 162:9,12 255:21
oh 30:12 35:16 53:1
 65:3 92:12 111:21
 117:6 148:11 157:19
 159:1 161:20 176:1
 178:20 191:10
 193:17 198:14 230:7
 240:20 247:11
 257:10 263:11 272:4
okay 8:21 20:7 27:9
 39:8 44:20 45:11
obligation 232:8

52:19 53:1,3,11
 56:13 58:8 70:5
 110:1,3 112:1,12
 114:4,6 117:8 122:19
 123:9 130:7 131:6,10
 131:13 138:12
 142:16 147:15
 148:11 155:7 156:14
 157:19 165:1 168:13
 168:16 170:5 173:13
 180:2,11 185:5 189:1
 192:7 194:11 195:4,6
 197:2 200:14 201:17
 207:9 209:11,16
 210:9 212:9 219:14
 220:21 224:20 228:6
 229:11 236:19
 239:11 240:18
 242:13 243:8 246:6
 247:15 255:8 257:12
 259:1 262:16 278:5
 287:6 289:6
olive 144:19
omitted 75:9,12,13
 76:3
once 37:3 134:19
ones 45:6 64:6 77:16
 222:14 275:8
one-sided 29:2 246:9
Ops 224:17
open 282:2 285:5
operandi 184:15
 237:12 266:17
operate 130:17 132:8
 135:18 244:21
 265:11 267:5 268:16
operated 240:5 241:4
 241:15
operates 214:16
operation 65:15 102:3
 102:12 106:12 110:6
 111:5 180:8 182:12
 192:12
operational 82:12
 86:17 100:21 151:3
operations 196:20
operations-from
 110:10
opined 63:18 64:3
 162:17
opinion 7:6 11:1 15:16
 16:1 29:15 33:9,20
 33:20 37:13,15,18,20
 55:1 76:2 77:6 79:17
 79:19 91:10 111:1,3
 115:9 135:6,8 139:16
 139:20 160:5 163:13
 167:15 174:21

175:21 176:5,13
 178:19,20 196:1,2
 221:11 226:5 228:21
 230:13 233:13 234:4
 234:7 235:3 236:1
 238:1 239:18,20
 252:5 258:18 259:11
 264:19 276:17,19
 277:8 280:16 282:21
 283:14 289:11,20

opinions 30:13,19 31:2
 31:13 40:11 108:2
 159:8 162:16
opponents 278:14
opportunities 136:4
opportunity 134:1,2
 134:21 136:6
opposite 229:1
oral 78:21
orchestrate 27:19
orchestrated 27:17
order 225:6 231:7
orders 265:10
Org 293:5
organization 1:5 23:17
 24:8 40:8 41:9 45:18
 60:21 70:17 86:2
 91:9 111:4 112:20
 113:7 121:7 125:6,12
 133:15 135:1 139:12
 145:17 159:6,12
 160:2 189:18 194:1,3
 202:2 204:4 237:8
 241:8,10 242:8
 243:11 262:6 264:5
 265:3,20 266:15
 267:2,9,13 269:13
 271:2 272:9 282:12
 282:16 288:16

organizations 34:14
 39:19 41:13,16 44:12
 60:12 68:17 82:1
 111:6 126:20 133:20
 135:17 136:10 140:7
 140:8 143:4,12 151:9
 152:2,17 153:7 183:6
 183:9 191:1 202:19
 214:4 236:7 237:17
 238:9 240:17 243:9
 244:18,19 260:19
opinion 7:6 11:1 15:16
 16:1 29:15 33:9,20
 33:20 37:13,15,18,20
 55:1 76:2 77:6 79:17
 79:19 91:10 111:1,3
 115:9 135:6,8 139:16
 139:20 160:5 163:13
 167:15 174:21

page 3:4,6 4:1,6 5:2
 7:8 18:21 27:11,14
 29:14 30:14 31:1
 33:17 35:20 39:7
 44:15,17,18 50:9,13
 50:16 51:4,5,8,11,14
 52:4 53:8 54:4 58:5
 58:11 59:19 69:20
 70:1 80:5 101:9
 102:1,6,7 110:16
 112:11,12 114:4,8
 117:1,6,7 120:14,20
 129:19 130:1,8,9
 133:12 136:11
organized 61:20 96:10
organizes 61:20
origin 84:14 147:12
original 5:16 7:15

P

PA 3:10 11:20 12:19
 32:17 33:1,5 35:14
 46:15 48:15 49:1
 57:16,18 59:13,16
 60:14 63:19 64:3,9
 65:13 67:21 69:3,9
 72:10 74:12 78:4
 80:14 96:21 97:5
 98:10 100:11,16
 102:2 105:13 106:3
 110:5 130:19 132:10
 140:6 141:2 142:7,11
 142:14,18 143:7
 144:3 162:9,10
 177:18 178:2 182:7
 206:5 207:14 210:2,3
 212:5,8 224:4 237:4
 237:19 251:14 252:1
 252:5,8,9,9 255:13
 255:21 256:1 288:18

page 3:4,6 4:1,6 5:2
 7:8 18:21 27:11,14
 29:14 30:14 31:1
 33:17 35:20 39:7
 44:15,17,18 50:9,13
 50:16 51:4,5,8,11,14
 52:4 53:8 54:4 58:5
 58:11 59:19 69:20
 70:1 80:5 101:9
 102:1,6,7 110:16
 112:11,12 114:4,8
 117:1,6,7 120:14,20
 129:19 130:1,8,9
 133:12 136:11
organized 61:20 96:10
organizes 61:20
origin 84:14 147:12
original 5:16 7:15

161:15 163:20 166:9	154:13 162:11,13	61:21 69:12,19 70:6	peer 54:16,18,19 55:11	pertinent 273:7,15,21
166:11 168:10 169:9	173:19 186:14	71:1,10,14,16 72:5	55:17,20 56:1,4,11	Peru 152:2 159:19
172:8 173:7,11	196:14 204:6 207:13	72:18 73:2,16 74:3	56:17 57:1,9,16	160:6 163:16,19
178:17 179:2,20	207:19 208:11	85:7 87:5 92:12 96:9	pen 13:3,11 14:13 77:3	Peruvian 160:4
180:1,2,3 182:7	211:10,18 213:6	97:8 121:11,15	111:2 118:16,17	PFLP 269:3,6,12
184:20 185:1,1 192:6	215:7 216:15 221:3	140:18 151:4 152:5	199:11	phone 10:17 11:5
194:19 195:1,3,3	240:9 241:10 242:3	153:20 170:18 176:7	penalty 7:17	124:8
196:6 199:4 202:7	243:7 249:15 250:12	176:10,11,12 224:3	penned 111:7 118:19	photocopies 3:13
204:19 209:9,12,13	251:7,8,16,21 252:7	232:7 234:11,19	124:15	46:19
211:20 212:1,9 215:4	252:11 260:18 261:7	236:2 237:11 239:12	Pentagon 101:1	phrase 152:12
220:19,20 224:19,21	261:18 263:15,21	239:21 243:3 248:6	151:20	physical 98:1
229:10 235:16	265:2,6,19 266:11	254:16 268:10 284:6	people 9:20 63:10	pick 147:12 279:11
238:10 241:9 244:7	268:13,17,21 269:15	284:13 289:6,16,17	73:11,13 107:12	picked 151:12
246:8,10 247:6	270:4,5 282:2,15	289:18	117:20 118:8,13,14	picture 142:9 176:21
248:14 249:10	283:1,9 284:5,8,15	participate 89:3 91:7	143:11,17,21 171:14	192:17 195:21 290:9
250:14 251:4 252:15	285:11 286:3 287:11	participated 256:19	176:16 177:13 183:8	piece 11:1 44:2 166:11
252:20 255:13,19	Palestinians 5:13 43:5	257:17 258:4 259:2	183:19 190:6 194:8	168:21 169:4 172:8
256:11 257:10,11,12	43:6,8,9,10 84:10,11	participation 68:18	196:13 197:14	230:4 252:19 276:3
257:14 260:14 262:2	90:12,14 167:3,17	particular 29:3 40:8	199:20 200:7,10	pieces 56:6 222:2
273:3 274:20 275:1	189:2,5,11,14 204:8	40:14 41:9 61:3 65:5	217:21 228:19	pillars 231:5,6,12
288:6 293:12,15,16	264:3,4 272:12,15,21	65:9 70:17 75:5	231:18 251:9,16	pin 270:11
294:3	286:5	86:10 136:19 156:12	252:1,7,11 264:4	place 94:10 152:18
pages 37:5 44:21 45:12	panel 89:3,7 90:7	177:17 179:9,19	190:12 239:5 290:21	190:12 239:5 290:21
50:8,10,12 75:6	91:11	193:9 222:14 227:15	292:5	placed 115:21
275:2	paper 14:10,16 22:11	228:13 233:15 234:3	places 46:15 167:13	places 46:15 167:13
pagination 148:8	22:12 23:4,8,20 32:2	235:14 255:5 272:9	211:11 282:4 283:20	211:11 282:4 283:20
paid 19:15,16 21:14,21	46:8,10,11 73:6,12	particularly 18:12	285:6 286:3	285:6 286:3
Palestine 1:4 160:9	73:19 74:13,18 142:3	145:1 231:15	plain 233:10 281:3	plain 233:10 281:3
262:7,7,9 268:13,21	179:2 233:20 243:15	parties 292:12	plaintiffs 1:2 2:3 21:11	plaintiffs 1:2 2:3 21:11
269:7,9,10,15 270:2	250:7 255:19 258:12	parts 147:7 148:3	21:13 38:8 79:21	21:13 38:8 79:21
270:21 271:20 272:7	papers 34:16	224:7 236:8	111:10 168:19	111:10 168:19
293:5	paperwork 269:21	party 32:7 61:2 130:20	planet 190:20	planet 190:20
Palestine-General	paradise 173:20 231:8	132:3,10 263:17	planned 27:19 101:11	planned 27:19 101:11
262:10	232:1	264:6 270:8,9,18	185:9	185:9
Palestinian 4:20 5:6,9	paragraph 29:3,14	pass 221:2 273:19	played 11:20 210:2	played 11:20 210:2
31:5 32:4,18 33:8,10	30:15,18 31:18,20	passage 119:2	279:3	279:3
34:10,21 41:18,21	32:1 39:6,9 41:6	passed 150:7 213:15	please 6:14 45:13	please 6:14 45:13
42:3,8,17 43:7 44:4	50:16 51:17 81:20	216:11 217:3 266:8	51:14 52:8 61:18	51:14 52:8 61:18
45:15 46:3 50:4,10	102:1 117:9 119:17	passing 213:12	128:21 145:8 215:17	128:21 145:8 215:17
50:15,19,20 51:4,10	130:16 131:7,12	passport 87:19	293:7	293:7
51:18,21 53:15 57:20	156:15 157:15,16,19	Path 160:1	PLO 5:8 11:19 32:8	PLO 5:8 11:19 32:8
59:10 60:8,20 68:14	157:21 161:21	pattern 181:17 250:4	35:9 37:12,12,17	35:9 37:12,12,17
70:5 71:1,10,14	166:10,13,19 169:9	Patterns 138:7	40:7 41:8,14,21	40:7 41:8,14,21
72:17 73:1,16 74:3	179:21 186:7 192:10	pause 245:14	42:13 44:12 49:21	42:13 44:12 49:21
80:21 81:10 84:7	194:18 212:9 220:20	pauses 141:18 188:10	42:13 44:12 49:21	42:13 44:12 49:21
85:1,5,11,19,21,21	240:2 241:12 244:8	payment 21:4,16,20	65:13 68:21 86:1	65:13 68:21 86:1
86:1 87:7 89:10,17	247:17 248:14	payments 289:11	97:10 125:11,18	97:10 125:11,18
90:19 93:13,18 94:12	249:12 257:20	290:2,3	139:20 140:10,13,20	139:20 140:10,13,20
95:17 97:10 99:19	260:15	PA's 164:3	141:2,9 142:7,11,14	141:2,9 142:7,11,14
104:18 105:2 110:8	parallels 97:12 290:1,2	peace 101:13 144:20	142:18 143:2 144:15	142:18 143:2 144:15
117:18 121:6 125:9	parameters 123:19	219:7 225:3 227:4	177:18 224:3 234:12	177:18 224:3 234:12
130:19 131:21 132:2	parcel 237:11	228:18 240:9 242:3	personnel 84:15	237:4 238:11 244:11
132:6,9 138:21 139:3	parentheses 198:5	243:7,20 244:1	211:18 261:8	245:9 250:17 252:2
139:13 140:3,6,11,13	Paris 187:1,4,6,11	250:20 276:13,21	persons 138:19	256:18 257:17 258:1
140:21 141:1,12	188:3	277:3 278:17 279:2,8	person's 83:4 204:14	258:3 259:2 265:16
142:6,13,17 143:3,7	Park 2:5	279:18 282:6	perspective 28:10 71:3	267:7 270:17 288:7
143:11,15,21 144:3,9	Parliamentary 109:9	peaceful 279:16	perspectives 82:21	288:18
144:9 145:5,5,13,15	part 31:10 34:17 42:11	286:19	83:19 90:9,10	PLO's 269:4

plug 70:19 71:19 76:9
plugging 84:18
plural 257:15 258:9
plus 19:2 177:10,10
PN 97:10
PNA 251:7,14 252:2,8
252:13
point 10:20 39:16
53:21 116:8 145:3
148:7 167:4 188:16
194:17 195:19 201:8
205:13 226:6 227:8
228:2,14 236:8 239:5
241:3 242:11,13,15
243:3 250:14 251:15
255:8 268:20 272:13
pointed 48:8
points 193:20
policy 153:1 219:9
political 71:5 151:21
153:2 192:16 195:19
225:7 248:19 281:9
281:13
pop 152:15 205:17
Popular 262:8,9 269:8
population 205:8
PORTER 2:5
portion 27:8,9 110:12
250:8 255:9,12,20
portions 7:21 8:1 27:5
223:8 249:6
portray 256:5
portrayed 250:19
280:14
portraying 225:2
228:17
poses 192:11
position 91:4 123:9
150:11
positions 90:21 91:2
93:3 196:4
possible 249:12 250:1
250:10
Post 185:12 236:20
potential 210:6
Powell 218:16,18
power 134:10 253:18
264:5 281:15,16,17
powerful 236:5
praised 180:4
praising 182:12
preaching-to-the-ch...
90:10
precise 17:4
precisely 128:17
predating 101:5
predominantly 282:15
282:15

premarked 6:3
premeditated 4:10
premise 284:9
preparation 19:1
30:10 268:1
prepare 98:7
preparing 38:11
presence 187:6
present 54:8 195:21
president 32:8 63:8,9
101:12 130:19
132:10 217:7
presumably 13:6
presume 104:3,10,13
105:1
presumption 105:3
108:13
presumptions 105:7
106:2
pretty 15:16 22:8 73:8
75:18 178:10 193:6
207:21 232:17
previous 22:6 41:2
94:10 104:21 262:13
previously 108:17
138:6 155:14 160:14
165:8 220:2
primarily 68:1 210:5
primary 103:17
principle 136:2
principles 186:15
printed 16:5 47:16
154:9
prior 13:16 62:11
65:21 99:15
Prize 227:5
pro 25:16
probably 10:14 22:9,9
25:11 26:4 58:18
61:11 64:11 66:5,6
79:2 82:9 84:1 87:21
89:19,20 90:6 92:3
96:1 152:13 221:18
276:21
problem 107:9 192:10
problems 278:12
proceedings 292:10
process 14:19 57:12
72:3 150:4 204:13
213:20 214:2,9,10
222:4 282:6
processing 22:1
produce 23:20 76:12
77:16 159:8 222:12
225:14
produced 34:16 102:8
129:8 213:14 229:6
produces 129:14

professional 15:16
16:1 34:5 77:6 79:10
111:1,3 228:21
professor 3:19 6:16
8:20 11:11 12:13
34:2 39:5,21 40:6
41:6 52:12 66:19
76:1 78:14 83:3
88:10 115:9 120:10
129:4 160:2 193:5
198:12 206:11 209:4
243:3 246:16 274:20
291:1
professors 153:17
proficient 267:3
profit 23:17
program 62:16 181:8
181:11
programs 215:8
prohibit 215:6
projects 215:8
promote 225:5 226:16
promoting 40:17
226:12 227:7,11
278:1,9
pronouncements
231:2
proof 112:17 113:3,12
113:16
propaganda 192:12,13
228:19
propagandists 195:18
proposed 152:7 219:2
proposition 119:20
226:10 248:5 253:14
256:16 278:10
protect 92:19
proved 112:19 113:6
114:12
proves 51:20
provide 147:11 214:5
214:6
provided 8:6,7,8 39:17
53:16 66:11,15 80:5
111:10,12
provides 133:20
providing 126:5
133:14
public 3:19 68:3,11,12
68:12 69:2,7 122:19
126:4,10 162:3 164:2
164:12 183:13,14
266:6 277:17,19
publication 53:5
129:15
publicly 249:12 250:10
publish 57:8
published 36:18 47:12

99:16
publisher 55:18,21
56:2
publishes 218:3
publishing 34:1
publishings 40:13
pull 23:8,10 64:11
128:1 178:3
pulled 24:5,11 70:3
Punitive 40:16
purport 103:21
purported 238:13
239:13
purporting 104:4
purpose 287:2
purposes 264:18
pursuant 251:5
push 65:8,9 246:9
pushed 246:9
put 10:2 18:8,17 37:17
37:20 55:3 58:15
70:16 74:18 75:15
76:14 78:14 90:8,8,9
167:19 177:11
183:19 208:6 230:20
233:20 253:6 266:18
274:11 275:7,15
276:4,6,7,10 277:1
puts 128:10,11 132:18
228:20
putting 28:18
P-R-O-C-E-E-D-I-N...
6:1
p.m 208:18 209:2
291:18

R
R 2:4
Rabbi 201:10
Rachel 3:17 8:8 9:21
38:2,13 79:2,4,20
81:15
radical 40:5 69:17
70:2,6 71:1,3,10,14
72:5,6,15,18 73:2,16
74:3 118:1,7,14
119:8
raised 106:11 193:11
rallies 179:4 277:17
281:14
rally 179:8 281:7,13
Ramallah 65:8,10,12
182:9
random 70:4
range 73:18
rank 236:17 237:2
238:6
rate 19:11
rates 19:12
rational 274:2
rationalize 278:19
reached 198:16
reaching 124:16
read 11:15 14:10 15:10
15:11 17:10 23:11
31:15,17 37:13 48:17
51:5 52:15,21 53:3

53:13 72:16,20 73:20	24:13 25:4,6,7 28:8	references 49:17,21	237:6	156:16 158:17
73:20 75:20 81:20	28:14,20 29:6 36:19	50:3 160:20 161:4	relevant 18:12 32:9,13	160:17 161:2,5,6,8
104:5,8 106:17 107:2	37:2 40:13 48:21	212:10	66:13 122:4	161:14 162:1,1,15
110:17 115:7 120:1	54:14 56:19 58:20	referencing 225:20	reliable 191:13	163:21 164:20 166:1
131:5,19 133:2,8	63:7,14,15 64:5,7,8	referred 38:14 48:13	reliance 164:15 196:3	166:2,9,11,19 169:14
145:11 148:2 156:3	64:14 68:13 77:10	referring 22:13 35:21	religion 71:7,8,20	169:15,16 172:1
161:6,7,9 165:20	78:20 79:1 81:8,14	46:12 65:14 74:21	religious 72:2 73:9	176:17 178:14,16
181:4 193:4 195:7	89:4,9 90:5,16 91:3	117:16 118:5,10	rely 108:1 162:16	179:20 180:1,9 181:2
224:2 244:11 249:21	91:14,17 92:6 93:19	119:2 170:2 174:10	relying 193:12	181:21 182:6,19,21
253:20 254:7,12	94:18 97:8,18 107:1	235:14 255:9 257:19	remain 187:4	184:18,20 185:2,8
263:1,5 271:20	124:7 128:8,16 133:1	267:19 271:7,11	remained 130:18	193:13,14,17 196:4,6
285:13 286:21 293:7	133:5 141:19 156:8	279:15	197:3 198:2 199:10	197:3 198:2 199:10
295:2	169:5,6,7 172:17	refers 51:10 52:5	199:20 200:3 201:1,9	199:20 200:3 201:1,9
reader 228:8,9	174:16 187:15,21	134:12 164:5 175:11	remains 204:20	202:9,12,16 204:19
reading 109:11 131:2	189:8 191:7 192:1	211:10 217:5 258:13	remember 9:17 10:18	205:9,12,18,20
147:4 219:5 233:10	230:4,7 236:4	258:15 263:4 280:13	20:11 64:10 65:1,3,4	208:10 209:10
235:10 253:21	recalling 28:2	reflect 14:1 221:11	78:18 83:7 88:11	212:10 213:5,16
263:13,14 281:3	receive 11:6 155:9	reflected 127:11	90:7 92:21 93:1,3	217:18 218:10,12
285:1,11 287:11	received 13:16 26:10	reflecting 111:3	96:15	219:13 222:21,21
291:4,5,17	127:16 168:18	reflects 15:21 77:5	render 55:1	223:2,6,8,10,15,18
readings 271:4,6,9,10	recess 67:8 149:11	111:1	rendered 21:5	223:21 224:2,6,8
271:13	208:18 246:14	refused 264:7	renounce 238:14	225:13 227:17 233:4
reads 33:20 50:16	274:18	refuses 51:21 53:15	239:14	234:3 236:2,3,8,10
51:18 164:1 206:14	recognize 7:3 12:14,18	regain 141:9	repeat 142:4	236:12 238:6,16
256:5 257:21 281:21	21:1 36:13 52:13	regard 43:13 210:6	report 3:7,9,10 4:3 5:4	239:5,8,19 240:12
ready 208:15	108:18 120:13 129:5	214:18	5:7,8,12 7:7,21 8:1	241:3,6,19 242:4,5
real 18:1 254:12	138:6 155:15 160:15	regarding 80:11 107:7	12:16,19 15:6 17:1	242:10,14,20 243:1,4
reality 5:6 225:4	168:7 171:14 180:20	127:18 173:7 187:5	17:12,19 18:20 29:12	244:10 245:9 246:20
226:15 229:1 283:11	185:18 197:9 215:21	205:8 218:6,10	30:20 31:3,14 37:21	247:10 248:10,11
really 8:4,11 9:10	253:11 257:6	275:20	38:14,19 44:13 46:1	249:6,10,19 250:9,15
11:12 23:15 70:12	recognized 10:13	regards 157:11 159:9	46:13 47:17 48:9	251:2,4 252:3,16
73:17 128:2 140:17	84:19 151:3 237:9	regime 104:11 105:5	55:11 59:19 62:6	254:19 255:7 256:3
151:15 193:18	251:6,17,20 252:6,10	134:8	65:15 75:1,2,9,10,15	256:12 257:21 258:8
226:12 276:18 281:9	recognizing 134:17	region 136:7	76:3,4,15,21 77:2,3,4	258:14,16,17 259:6
288:14	152:16	registered 133:9	77:5,9,13 78:6,7,8,11	260:12,15,17 261:11
reason 13:15 63:4 66:7	recollect 64:2	regular 208:6 291:9	78:15,17 79:18 80:4	261:21 262:5 263:7
158:7 195:13 245:13	recollection 41:2 54:8	REINHARD 2:11	81:3 100:3 101:6,8	268:2,7,9 272:10
293:9,16 294:3	156:11	reintroduction 216:21	101:10,21 102:1,8	273:4 274:9,21
reasonable 76:19	reconcile 277:19 278:6	rejected 108:4,6	103:8,9 105:19 106:5	275:19 276:17 286:9
104:1 115:1 279:16	record 6:14 21:20	relate 67:20	106:8 108:19 109:13	288:6,10,11 289:9,13
285:12	23:21 66:4 70:10	related 35:14 80:13	109:19 110:4,14,21	289:19 290:7,8,15
reasoning 289:12	159:4 292:10 293:11	139:14 167:13	112:8,14 113:3,19,21	reported 50:18 137:3
rebut 223:19 236:2	295:6	168:19 179:15	114:1,9,15 115:4,7	147:1 158:10 174:16
288:11 289:14	recorded 292:9	222:19 227:2 273:15	115:10,20,21 116:19	181:13 182:8
rebuttal 5:4 37:21	recount 186:18	relates 38:18 56:15	117:5,6 119:18,18,19	reporter 1:14 12:5
46:13 75:2,9 76:3	recruited 151:1	129:15	120:3 121:4,9,10	47:2 194:15 291:4,7
78:6,15 79:6 105:19	reevaluate 196:3	relating 40:11	123:15 124:1,13,20	291:11 292:1,3,18
106:5 127:12 222:21	refer 39:5 119:3,3	relation 66:12 89:11	126:1,2,16 127:6,12	reporting 138:21
223:2,6,15,18 224:6	226:3 229:9 233:17	99:12 100:16 129:9	127:13,16,19 128:7,9	181:7
227:17 233:4 235:16	290:6	160:9 177:3	128:12 129:6,10	reports 10:15 74:19
236:2 246:20 249:6	reference 51:3,9 58:4	relations 5:10,14	130:12 132:14,15,19	76:11 103:7 105:9
250:9 260:14 273:3	81:21 94:20 95:16	153:17 252:16	132:21,21 133:3,11	128:18 129:14 143:9
274:21 288:11 290:7	103:11 130:9 133:17	relationship 140:3,5	133:12 134:11,20	147:9 163:5,7 178:9
290:8,15	134:14 137:12,17	237:14,16	135:10 136:11,18	178:11,12,13 187:12
recall 8:4 9:10,11 11:2	145:14,16 164:15	release 165:6	137:14,15 138:3,8,16	187:14,16 188:13
11:12,13 14:16,18	238:6 266:14 280:17	released 165:14	139:5,6,8,10 145:9	189:6 195:11 198:19
15:11 16:11,12,15	referenced 11:6 35:14	relevance 234:17	146:16,19 147:3	202:13 205:15,17
17:21 18:14 22:20	48:8 165:3 181:20		149:13 155:3,18	256:17 257:15

258:10,19 268:10 represent 38:8 42:20 200:17 representation 41:1 221:13 representative 251:8 251:15,18 252:7,11 representatives 210:21 217:6 reproduced 14:9 114:8 reputable 159:12 194:7 request 188:20 requested 188:21 222:18 291:17 requests 33:1 222:19 required 150:16 Res 4:18 research 5:14 13:10 14:5 23:8 24:4,6,9,12 25:1 33:21 73:6,7 74:10 75:4 97:18 98:4 126:14 127:4,18 162:2,4 172:9,21 178:9 192:11 214:5 238:16 240:21 256:12 259:4 260:17 261:11 271:5,6,10 researched 14:4 16:4 124:6,14 128:13 researching 48:21 residence 82:16 resolution 128:3,3 178:4,6 210:10 212:11,14,17 213:2,4 213:12,14,15 214:18 214:21 215:3,10,14 216:2,11,18 220:2 221:7,10,18 273:16 273:16,20 274:2,12 286:18 resolutions 18:9 74:17 103:10,19 115:17 128:2,19 222:19,20 258:20 266:8 273:19 respond 203:21 285:2 285:8 response 171:4 286:5 responsibility 50:20 55:19 139:1,4,20 143:20 144:16 183:7 183:11 264:17 265:13 266:10,21 responsible 32:10 256:7 273:10 rest 102:6 220:8 258:7 282:5 result 161:4 196:14	216:16 resulting 213:8 retained 5:16 98:4 retired 83:9 87:16 return 61:14 286:19 286:20 293:13 returned 101:12 Reuters 146:19 147:3 Reuters/Cohen 147:5 Reuters/Gil 148:5 review 15:8 23:11 25:13,15,17 40:15 54:16,18,19,21 55:6 55:7,12,14,15,20 56:1,4,11,12,14,17 56:20 57:2,4,9,12,14 57:16 58:3,13,17 77:19 105:9 106:7 113:11 116:17 166:6 247:20 269:2 reviewed 55:11,17 57:1 75:16,19 77:12 105:8 111:13 138:2 161:5 168:20 169:2,3 180:14 229:17 288:4 reviewing 23:16 24:1 reviews 18:3 42:6 49:14,19 50:1,5 51:6 53:2 109:3,15 120:16 193:3 195:6 199:2 211:15 226:8 239:10 240:14 246:7 254:10 254:13 revised 98:13 revolution 281:4 rewards 232:1 reworded 28:2 rhetoric 117:17 166:21 167:18 169:18 170:1 171:2 ribbon 152:11 Richard 195:5 right 7:15 8:4 12:3 23:2 33:15,16 37:16 45:21 49:10 52:6 59:17 62:13 67:4 74:4,5,8 77:2 79:13 83:6,8,21 100:9 102:4 110:20 112:6 114:14 116:4,20 122:1 128:16 130:2 131:12 146:15 150:2 152:13 161:18 165:11 169:5,14 172:2 175:1,2,6,12 175:17 178:17 184:3 185:13 199:11,16 200:6,8,14 201:5	203:20 204:8,16 205:19 209:15,19 210:10 211:1 212:11 212:14 214:14 215:12 217:1 222:5 224:11 226:17 234:10 235:9,17 240:20 249:3 251:9 251:12 258:14 263:5 263:8 283:16 286:19 rights 158:21 159:7,10 159:11 160:4,6,8,16 162:4,7 163:1,4,13 163:14 164:19,21 165:17 Right-Wing 4:13 risk 32:20 rituals 232:19 RLE 1:6 Robinson 37:21 127:12 161:2,8 166:1 223:15,18,20 224:2,7 224:10 236:1 288:10 289:3 290:10 Robinson's 289:14 rock 280:12,15 rocket 51:1 role 11:19 34:9 46:2 63:18 67:20 68:20 69:10 86:2 87:7 210:2 roles 90:17,19 rolling 65:11 rough 291:15 round 206:10 Roundtable 40:20 rubric 221:19 Rudeineh 158:4,12,15 rule 3:13,15 104:16 227:16 ruler 184:15 rules 87:4 ruling 144:14 run 23:17 24:7 79:7 88:8 R-E-Y 224:17	158:15 169:6 178:1 226:12 229:3,14 243:15 250:3 254:2 270:2,5 278:19 284:13 289:1 says 18:5 27:15 41:6 48:2 50:12 51:2 59:7 59:19 69:17 121:13 129:7,12 130:1 131:10 133:16 146:2 147:5 148:2,16 149:4 155:8 158:5 166:13 167:1 173:20 182:7 184:1,6 187:3 188:6 190:17 192:1 193:13 194:9 195:17 196:19 197:5 198:2 199:11 200:10 201:12 202:1 203:13 204:14 205:15 206:5 207:16 208:17 209:17 210:18 211:1 212:19 213:20 214:1 215:12 216:13 217:1 218:19 219:10 220:1 221:11 222:12 223:1 224:13 225:14 226:15 227:15 228:16 229:17 230:18 231:19 232:20 233:1 234:21 235:22 236:1 237:23 238:24 239:1 240:25 241:26 242:1 243:27 244:28 245:1 246:29 247:30 248:1 249:31 250:32 251:1 252:33 253:34 254:1 255:35 256:36 257:1 258:37 259:38 260:1 261:39 262:40 263:1 264:41 265:42 266:1 267:43 268:44 269:1 270:45 271:46 272:1 273:47 274:48 275:1 276:49 277:50 278:1 279:51 280:52 281:1 282:53 283:54 284:1 285:55 286:56 287:1 288:57 289:58 289:1 290:59 291:60 291:1 292:61 293:62 293:1 294:63 295:64 295:1 296:65 297:66 297:1 298:67 299:68 299:1 300:69 301:70 301:1 302:71 303:72 303:1 304:73 305:74 305:1 306:75 307:76 307:1 308:77 309:78 309:1 310:79 311:80 311:1 312:81 313:82 313:1 314:83 315:84 315:1 316:85 317:86 317:1 318:87 319:88 319:1 320:89 321:90 321:1 322:91 323:92 323:1 324:93 325:94 325:1 326:95 327:96 327:1 328:97 329:98 329:1 330:99 331:100 331:1 332:101 333:102 333:1 334:103 335:104 335:1 336:105 337:106 337:1 338:107 339:108 339:1 340:109 341:109 341:1 342:110 343:111 343:1 344:112 345:113 345:1 346:114 347:115 347:1 348:116 349:117 349:1 350:118 351:119 351:1 352:120 353:121 353:1 354:122 355:123 355:1 356:124 357:125 357:1 358:126 359:127 359:1 360:128 361:129 361:1 362:130 363:131 363:1 364:132 365:133 365:1 366:134 367:135 367:1 368:136 369:137 369:1 370:138 371:139 371:1 372:140 373:141 373:1 374:142 375:143 375:1 376:144 377:145 377:1 378:146 379:147 379:1 380:148 381:149 381:1 382:150 383:151 383:1 384:152 385:153 385:1 386:154 387:155 387:1 388:156 389:157 389:1 390:158 391:159 391:1 392:160 393:161 393:1 394:162 395:163 395:1 396:164 397:165 397:1 398:166 399:167 399:1 400:168 401:169 401:1 402:170 403:171 403:1 404:172 405:173 405:1 406:174 407:175 407:1 408:176 409:177 409:1 410:178 411:179 411:1 412:180 413:181 413:1 414:182 415:183 415:1 416:184 417:185 417:1 418:186 419:187 419:1 420:188 421:189 421:1 422:190 423:191 423:1 424:192 425:193 425:1 426:194 427:195 427:1 428:196 429:197 429:1 430:198 431:199 431:1 432:200 433:201 433:1 434:202 435:203 435:1 436:204 437:205 437:1 438:206 439:207 439:1 440:208 441:209 441:1 442:210 443:211 443:1 444:212 445:213 445:1 446:214 447:215 447:1 448:216 449:217 449:1 450:218 451:219 451:1 452:220 453:221 453:1 454:222 455:223 455:1 456:224 457:225 457:1 458:226 459:227 459:1 460:228 461:229 461:1 462:230 463:231 463:1 464:232 465:233 465:1 466:234 467:235 467:1 468:236 469:237 469:1 470:238 471:239 471:1 472:240 473:241 473:1 474:242 475:243 475:1 476
---	--	--	---

240:13,20 242:5	228:12,13 235:3	shown 29:21	slogans 117:12,15
245:11 263:16 265:7	239:12 240:1,3	shows 145:4 171:12	119:4,9 167:11
265:9 272:17,18	241:21 242:1,9 243:2	shred 266:19	small 121:5
seeing 134:3 139:8	243:4,15 248:5,6,7	Shrewd 250:18	smoking 115:11
156:21	248:21 249:11,21	shrouded 279:12	Social 6:20
seeking 54:20 84:20	251:1 253:2,4 254:1	sic 88:12 231:16	Sokolow 1:1 244:11,14
seen 8:14 17:3,7 71:18	254:16,20 255:3,5,6	side 28:18 43:17,18	245:3 293:5
71:21 143:9 160:18	256:4 258:9 259:1	161:12,15 227:15	soldiers 150:13
160:20 165:4,17	262:11,21 263:2,14	sided 43:19	sole 242:9 251:7,15
178:11,12,13 179:18	272:17 273:6,17	sides 28:10,11,19	252:6,10
182:1 186:14 192:2,4	283:7 284:6 286:9	43:20 227:13 228:16	solicit 73:11
sees 134:21 228:3	sentences 28:14 29:8	side-to-side 15:12	solicitation 144:3
seized 74:14,15 102:2	262:13 263:1	sign 15:15,17,20	solicited 143:3,7 266:1
102:11,16 103:5	sentiment 251:1	182:18 274:1 293:12	soliciting 145:5 203:19
106:12 110:5	separated 113:1,9	signature 7:9,10 26:14	solve 28:3
selected 76:10 249:1	September 21:5 33:16	26:17 295:12	sorry 47:13 69:21
selective 195:18	196:12 243:12	signed 7:11 15:6 17:19	87:12 90:18 99:10
self-defense 203:10,21	serious 214:11	18:20 77:20 109:19	100:15 117:3 124:11
204:1	seriously 214:12	111:15 112:8 114:1,9	131:1,3 146:4 168:9
sells 132:8	serve 90:17,20	115:21 121:10	179:21 188:11
seminars 34:16	served 91:1 100:4	124:20 127:6,17	192:19 194:16 195:1
Senate 80:18 219:10	servers 97:21	138:3 139:5,10	195:2 209:14 222:1
219:19 220:13	service 4:14 5:14	158:18 169:14	247:1 263:13 272:4
Senator 152:10	147:6 148:2 214:5	199:11 201:1 293:14	sort 91:4 179:4 281:10
senators 217:6	217:21 238:16 241:1	significance 18:7	sought 249:14 250:12
send 16:8 21:7 22:7	256:12 259:5 260:17	signify 30:4,6	sounds 156:10 190:11
24:9 55:7,21 57:8	261:11	signing 31:3 291:4,6	source 16:9 17:18,20
124:9 208:4	services 21:5 147:10	291:17	24:5,15,19 58:11,12
Sendero 159:20	164:4	signs 73:10	58:19 59:9 74:2
sending 265:10	sessions 84:3	silence 290:5	75:21 76:14 103:1,3
sends 55:18	set 33:20 213:21 292:5	Silliman 154:2	103:17 104:7 109:18
senior 24:9,12 100:4,8	sets 31:18	similar 141:13,16	110:12 143:13
sense 176:9,10,11,11	setting 31:13	166:21 169:18	146:17 162:19 163:3
176:12,13,21 219:5	settlements 282:1,4	243:18	178:15 181:10
221:17 222:10,11	284:4,13,18 285:9	similarly 72:4 163:4	191:14,16 193:12
256:5 258:21 264:21	286:11,20	simply 23:14 72:19	197:18 228:10
284:2	settlers 132:4 261:6	195:20 214:14	sources 50:18 73:18
senseless 213:8	Seven 287:10	216:21 226:5 231:1	74:20,21 75:3,7,11
sent 9:15 13:9 14:17	Seventh 36:2,5,19 37:4	242:9 278:20 279:15	75:14,17,19 76:8,11
14:18,20 15:4,13	45:8 46:4	single 35:15 44:2 74:1	76:13,17 77:1,13
22:2,7,9,17 25:12	Shabak 196:12,17	77:7 115:12 145:3	78:2,9,12 79:5 94:8
27:6,21 77:8 116:19	197:1,2	258:14,15,16 268:20	94:12 124:2,3 126:15
177:14 205:21 293:1	shadow 49:12	271:19 272:6	127:5,18,20,21
293:13	shadowy 270:10	sir 101:8 160:12	187:18 197:16
sentence 27:15,20 28:3	Sheet 293:2,8,14 294:1	216:10	206:17 287:15
28:9,13 29:4,6 31:10	295:11	sit 25:5 27:4 44:1	SOUTHERN 1:3
31:11 33:19 41:5	Shield 65:16 102:4,12	63:11 64:1 78:3	sovereignty 204:16
54:4 110:20 111:8	106:12 110:6	93:20 107:1 198:12	spark 27:17
112:11,12,18 113:5	Shin 196:11,21	252:5	sparked 28:12
114:7 115:19 116:3,9	shining 160:1 237:1	site 206:9 242:4	speak 42:9 95:12 96:14
117:9 118:15,16,17	shooting 80:11	situation 268:18	97:5 118:19 119:12
124:4,15 126:13	short 11:2,13 31:19	situations 177:13	122:20 156:5 173:3
130:15 131:4,6,14,16	220:7	six 67:15,18	209:6 230:1 281:10
131:17 136:18,20	Shorthand 1:14	sixteen 287:10	speaker 155:21 156:16
146:2 154:20 158:3	show 7:1 12:9 36:3	Sixth 48:13,14	speakers 20:15 90:20
173:12 177:9,10	63:16 74:15 108:16	skepticism 105:4	speaking 19:6,13
189:1 205:3 218:15	155:13 160:13 168:2	slightly 198:17	85:12 89:17 122:20
221:14 225:1 227:2	showed 81:14	slogan 119:5 167:12	123:4 149:15 156:11

123:4,10 152:6 153:9	143:10 144:1 145:12	stuff 56:2 135:14	105:10 109:2 113:4	268:11 269:10 273:2
Staffel 80:7	145:14 165:9,13	stupid 183:21	116:18 141:20 142:1	276:2 283:20 287:16
staffs 214:6	176:15,18 183:14	style 291:16,16	146:20 172:17	talks 32:1 39:15 40:9
stage 86:9	266:6 278:16,18	Sub 39:6	173:16 178:7 180:10	42:11 65:18 74:12
stamp 26:16,19,21	279:17	subject 11:1,16,17	184:21 246:4,13	101:13,13 227:3
stamps 27:2	states 1:1 18:21 33:1	38:18 57:15 98:5,9	254:11 267:18	240:9 241:6 242:3
stand 64:6 159:5 248:4	50:17 53:14 59:20	162:17	274:17 276:18	243:7,20 244:1,3,5
278:10	71:20 80:6,17 81:4	subjected 187:19	surprise 190:16 273:1	Tal.machnes@aport...
standard 291:16	87:1 96:14 100:3,5	submitted 29:20 57:5	suspects 51:19	2:7
standing 172:14	101:10 110:4 113:6	Subparagraph 212:2	suspended 62:2,4,16	tank 88:19
stands 32:17 65:19,19	113:10 120:3 126:2	subsequent 48:6,21	suspicious 277:6	tanks 65:11
77:17 172:19 226:9	130:16 133:12	54:9,11 128:14	sworn 6:7 292:6	Tanzim 244:8,15
228:1	138:16 162:1 185:8	subsequently 83:8	syllabus 154:9	245:4 247:17,20
star 18:4,6,8,11,17	186:21 196:10	subset 152:18	symbol 119:5 167:12	248:2
starred 18:16	206:19 218:16 219:6	substance 10:17 22:1	167:14 174:17	target 232:9 285:20,20
stars 18:8	241:3 255:21 260:16	29:11 149:16 209:6	217:20	targeted 42:16 43:2,4
start 7:20 44:16 56:13	272:11 273:7	substantive 28:16	symbolic 118:12	44:9 57:19 58:17
68:11 97:4 101:9	state-sponsored 35:7	substate 35:7 152:20	symbols 72:15 73:10	89:14 94:15 203:15
123:2 161:12 196:6	152:19	suffering 266:20	117:12,15 118:10,11	targeting 4:6 118:9
196:10 209:4,21	State-Sponsors 40:19	suggest 68:20 126:4	119:1,9 167:11	targets 51:1 132:4
224:19 252:9 287:18	state-supported 35:7	254:4	169:21	259:9
started 83:11 131:5	152:20	suggesting 107:9	Symposium 40:20	task 24:8,9
151:2 153:9	stating 207:17	177:14 227:1 237:3	synonym 119:4 197:1	tasks 222:7
starters 210:15	station 182:10	254:19	Syria 134:3,4,6	taught 82:10,13 83:16
starting 30:14,15 82:5	stationing 211:17	suggestions 108:5	system 104:17,20	teach 83:16 151:2
151:16 262:21 275:1	stats 97:19	suggests 250:9	S-E-N-D-E-R-O	153:15,20 154:4,5
starts 83:6 114:4	stayed 187:1 188:3	Suha 4:9 185:2 186:12	159:20	231:15
131:15 155:5 157:21	staying 281:15	186:17 187:5,10	S-E-S-S-I-O-N 209:1	teaches 154:3
166:10 248:15	stenographic 293:10	suicide 4:4 118:9	<hr/> T	teaching 100:11,13
263:15	stenographically	136:13 138:17 140:1	T 2:11	151:3 177:20
state 4:3 5:12 6:13	292:9	146:9 147:7 148:4	Table 161:16,18 257:7	Tel 180:5
21:19 70:18 119:18	step 14:21 51:18	183:19	tactic 71:5,6	telephone 10:5,6
119:19 120:2 121:3,9	sticks 28:13 29:9	suit 192:15	take 26:14,21 28:5	218:19
121:10 124:1 125:2,3	stipulate 200:20	Suite 1:12 2:13	52:20 55:7,14 56:5	television 117:18
125:6,12,21 128:6,10	stood 59:18	summarizes 30:19	65:20 66:20 67:3,6	181:8,11 186:4,10
128:11,13 129:6,13	stop 33:2 213:8	summary 226:5	73:7 91:15 100:10	tell 14:19 18:15 21:3
129:15 130:12 132:7	story 65:6 147:12	superior 163:7,10	104:13,21 108:4	27:4 31:12 46:1
132:13,18 133:2	174:16 227:14,15	superseded 48:12	114:21 134:2 136:7	61:17 64:1 70:21
134:11,16 136:3	straight 253:17	supplying 108:12	173:3 183:7 184:20	71:12,13 79:10 82:4
138:7,16 149:5	strain 231:16	support 76:4 78:3	95:6 103:15 107:8	95:6 103:15 107:8
179:20 202:5 204:19	strategy 219:1	119:20 126:5,19	113:15 114:11,17	113:15 114:11,17
207:10,12,18 208:1,3	street 1:12 2:12 136:14	133:20 196:3 242:5	202:6 211:14 214:12	116:9 133:9 135:20
218:16 223:14	strike 16:21 17:5 40:4	256:4 257:14 271:11	218:21 227:18 228:9	141:19 142:16 144:8
236:15 238:10	42:2 130:14 222:1	supported 143:5 254:5	231:1 246:3 249:8	173:21 176:7 177:1
240:16 241:14 251:4	234:15 253:7	supporting 134:7	274:15 277:9 284:3	183:19 197:12 198:1
256:13 260:15 283:8	Strip 132:6 162:6	supports 54:3 72:17	taken 139:18 196:4	208:12 230:17 235:8
stated 252:21	striving 231:11	110:13 176:8 243:1,4	208:18	235:10 238:5 257:13
statement 41:10,11	stronger 272:13	254:20	takes 243:13	264:2 267:4 268:12
58:11 104:5,7,8	structure 29:7 248:16	suppose 65:13 107:16	Tal 2:4 21:9	268:15 271:15 278:6
162:14 176:6,7,15,20	285:16	107:17 171:8 205:12	Taliban 80:15	281:1 283:3 289:6
192:8 209:21 212:16	struggle 229:14,14,14	supposed 67:15	talk 95:15,16 127:15	tells 122:17
239:16 242:12 250:2	229:15 230:15 235:2	Supra 228:4	189:18 229:10 289:3	ten 11:10 24:6 87:20
252:20 254:4 271:11	235:7 238:14 239:14	Supreme 81:5	talked 62:12 69:5	tens 204:20
272:20 281:8 287:4,6	students 23:8 24:10,18	sure 8:11 15:8 16:6	205:15 214:20 236:9	tensions 97:9
287:7	studies 33:21 34:8,12	21:2 31:2,16 34:11	286:18	tenure 54:20,20 55:3,3
statements 73:12	35:13 38:14	35:16 55:8,18 56:19	talking 42:17 64:18	term 55:4 86:19 95:14
104:14 105:1,4,7	study 153:13	88:13 94:17 97:17	69:20 166:16 179:1	152:14 171:6,16
108:14 128:14	studying 34:18		235:6 247:16 266:4	175:15 221:16

231:13 232:6 244:20 280:6 285:14 terms 84:17 118:12 222:5 252:1 269:19 270:12 279:11 territories 57:21 84:10 141:9 261:7 265:6 territory 211:19 268:17 286:20,21 terror 3:14,15 4:6 32:10 40:8 41:9 69:18 70:2 72:8 87:8 152:9 196:14 235:20 250:6 260:18 261:18 265:14 266:20 267:8 278:1,9 279:6 terrorism 3:11,13,15 5:9,11 10:11 23:6 34:3,17,17,18 35:3,4 35:5,10,12,19,21 40:3,4,19 42:10,20 42:21 45:9,13 60:4 60:17 62:1 70:14 71:4,4,6,18,18 73:11 82:13,21 83:16 84:6 84:7,9 86:6 89:2,12 95:8,13 96:4,5,7,20 97:7 98:10,11,13 99:2 127:2 136:3,5 138:8 143:5 149:20 151:6 152:2,9,12,14 152:19,20,20,21 153:7,8,13,15,21 154:3,5,6,10 170:12 183:5,7 184:16 225:3 225:6 244:6,20 250:18 253:16 255:15,18 256:8,9,13 259:8,9 265:7 271:14 272:16 Terrorism.doc 12:20 terrorist 4:2 34:14 35:8 41:13,16 50:19 61:4 68:18 71:21 85:16 92:19 97:20 110:9 111:5 125:1,6 125:12 126:20 133:20 135:1,17 136:9 139:14 140:19 143:8,12 144:4 145:6 145:16 151:9 160:1 163:18 177:7 202:2 202:18 203:7,11,12 203:14,17 204:3 224:4 226:11 227:6 227:10 237:8 238:8 240:17 241:8 243:11 267:13 268:5 270:10	271:1 288:16,20 289:1 terrorists 42:18 43:7,7 60:21 89:14 121:5 244:18 testified 6:7 80:17 testimony 19:1 21:21 43:12 80:5,20 149:17 209:6 254:21 295:6 Texas 6:19 19:20 20:6 text 77:8 116:18 233:9 252:3 textbook 35:17,18 36:1 48:7 Thabet 156:18 157:1 157:13 158:15 164:5 164:15 thank 51:13 81:19 194:16 261:5 291:3 theme 95:15 117:19,21 118:2 168:1 233:21 234:19 242:7 243:1 themes 40:11 72:2 223:20 theology 231:19 they'd 10:10 91:3 104:2 thicker 67:16 thing 14:6 49:11 98:16 116:3 243:17 269:7 269:12 270:20 285:17 things 29:8 62:6 82:13 149:14 152:15,21 183:20 184:1,6,12 196:20 213:21 276:14 think 8:9 9:21 13:18 16:14,16 20:5 26:3 27:3 28:2 37:5 48:11 48:12,20 58:12 59:11 64:8 73:18 78:3,9,10 78:16,16 88:19 93:11 94:15,20 95:10 98:12 98:15 103:17 104:1 114:2 115:1 123:16 123:17 134:8 135:5 148:8 152:4 166:3 169:3 190:4 194:9 195:15 218:12 228:2 229:2,3 233:9 236:13 243:17 244:19 245:18 249:20 250:2 250:2,14 265:21 266:13 267:17 269:6 269:11 275:18 278:21 279:20 285:12 286:4 288:14	291:1 thinking 94:7 thinks 283:2 Think-Tank's 4:14 third 32:1 131:6,14 161:12,15 192:9 223:14 255:12 260:16 279:21 thirteen 34:2 Thomas 195:4 thoroughly 31:21 thought 9:15 25:17 47:20 104:12 179:1 183:12 232:10 thousand 200:17,18 thousands 152:14 204:21 206:9 273:11 thread 141:4,5,7 three 36:21 37:3 47:21 64:20 83:16 92:3 136:15 138:18 146:8 210:21 243:8 245:8 245:11 247:19 threw 226:5 tie 45:21 144:7 146:17 tied 141:3 ties 4:20 141:1 time 3:18 5:5 9:19 11:2 15:20 23:9,14,15 24:1,3 25:12 32:9 33:5,13,14 35:9 36:8 36:20 45:2 47:16,17 49:6 52:5,13,20 54:6 58:20 59:2 61:11,13 66:10 73:7 76:12,16 78:10,11,14 79:7 83:2 84:20 85:10,21 86:5,7,11,16 87:10 87:12,13,17 90:3 93:9,11,21 101:5 111:17 124:5,7 128:1 129:15 141:16 151:19 187:18 199:15 207:13,19 211:14 219:6 225:8 225:19 226:1,14 227:9 240:5 264:6 280:16,19 292:4 times 59:20 63:18 68:16 102:8 109:14 123:18 145:1 222:17 245:8 247:19 tip 83:7 Tirawi 164:3,7,9 tirelessly 225:5 226:16 title 52:18 53:4 69:1 131:8 220:7 224:11 231:1	titled 12:15,19 196:7 245:9 256:12 288:7 today 25:5 27:4 30:9 44:2 63:11 64:1 78:3 93:20 107:1 134:3 152:13 156:19 157:1 164:16 178:12 180:19 179:2,12,16 181:12 183:12 187:3 188:19 190:2,13,14 191:12 192:13 193:1 194:18 195:1 196:1 197:1 198:1 199:1 200:1 201:1 202:1 203:1 204:1 205:1 206:1 207:1 208:1 209:1 210:1 211:1 212:1 213:1 214:1 215:1 216:1 217:1 218:1 219:1 220:1 221:1 222:1 223:1 224:1 225:1 226:1 227:1 228:1 229:1 230:1 231:1 232:1 233:1 234:1 235:1 236:1 237:1 238:1 239:1 240:1 241:1 242:1 243:1 244:1 245:1 246:1 247:1 248:1 249:1 250:1 251:1 252:1 253:1 254:1 255:1 256:1 257:1 258:1 259:1 260:1 261:1 262:1 263:1 264:1 265:1 266:1 267:1 268:1 269:1 270:1 271:1 272:1 273:1 274:1 275:1 276:1 277:1 278:1 279:1 280:1 281:1 282:1 283:1 284:1 285:1 286:1 287:1 288:1 289:1 290:1 291:1 292:1 293:1 294:1 295:1 296:1 297:1 298:1 299:1 299:1 300:1 301:1 302:1 303:1 304:1 305:1 306:1 307:1 308:1 309:1 310:1 311:1 312:1 313:1 314:1 315:1 316:1 317:1 318:1 319:1 319:1 320:1 321:1 322:1 323:1 324:1 325:1 326:1 327:1 328:1 329:1 330:1 331:1 332:1 333:1 334:1 335:1 336:1 337:1 338:1 339:1 339:1 340:1 341:1 342:1 343:1 344:1 345:1 346:1 347:1 348:1 349:1 350:1 351:1 352:1 353:1 354:1 355:1 356:1 357:1 358:1 359:1 359:1 360:1 361:1 362:1 363:1 364:1 365:1 366:1 367:1 368:1 369:1 370:1 371:1 372:1 373:1 374:1 375:1 376:1 377:1 378:1 379:1 379:1 380:1 381:1 382:1 383:1 384:1 385:1 386:1 387:1 388:1 389:1 390:1 391:1 392:1 393:1 394:1 395:1 396:1 397:1 398:1 399:1 399:1 400:1 401:1 402:1 403:1 404:1 405:1 406:1 407:1 408:1 409:1 410:1 411:1 412:1 413:1 413:1 414:1 415:1 416:1 417:1 418:1 418:1 419:1 420:1 421:1 422:1 423:1 424:1 425:1 426:1 427:1 428:1 429:1 429:1 430:1 431:1 432:1 433:1 434:1 435:1 436:1 437:1 437:1 438:1 439:1 439:1 440:1 441:1 441:1 442:1 443:1 443:1 444:1 445:1 445:1 446:1 447:1 447:1 448:1 449:1 449:1 450:1 451:1 451:1 452:1 453:1 453:1 454:1 455:1 455:1 456:1 457:1 457:1 458:1 459:1 459:1 460:1 461:1 461:1 462:1 463:1 463:1 464:1 465:1 465:1 466:1 467:1 467:1 468:1 469:1 469:1 470:1 471:1 471:1 472:1 473:1 473:1 474:1 475:1 475:1 476:1 477:1 477:1 478:1 479:1 479:1 480:1 481:1 481:1 482:1 483:1 483:1 484:1 485:1 485:1 486:1 487:1 487:1 488:1 489:1 489:1 490:1 491:1 491:1 492:1 493:1 493:1 494:1 495:1 495:1 496:1 497:1 497:1 498:1 499:1 499:1 500:1 501:1 501:1 502:1 503:1 503:1 504:1 505:1 505:1 506:1 507:1 507:1 508:1 509:1 509:1 510:1 511:1 511:1 512:1 513
---	---	--	---

unable 16:13,15 101:17	259:11 260:4 286:6	war 3:13,15 69:18 70:2 152:9 235:6 282:2,3 282:6 283:8 284:4,11 284:14,18,21 285:5 285:14,15,17,18,19 285:19 warfare 97:19 151:5,6 272:13 warnings 207:10,18 208:6,9 Washing 2:13 Washington 1:12 125:18 236:20 wasn't 37:6 77:11 86:3 90:10 99:16 100:13 111:16 179:17 287:6 Watch 158:21 159:7 159:11 160:4,9,17 162:5,7 163:1,4,13 163:14 164:19,21 165:18 287:12 way 70:16 79:15 119:5 122:16 130:3 152:15 165:18 171:17 183:16,18 226:13 231:8 243:16 274:6 Virginia 60:1 82:11 151:14 153:19 visit 87:13 88:3 92:4 93:14 95:4,20 96:3 96:16,18 98:21 206:9 visited 87:12,15,17,20 95:3 98:19 173:2 190:4 visits 162:7 vis-a-vis 43:16 140:19 270:18 volume 66:3 76:12 267:21 volunteered 150:10 vote 108:10 266:9 273:20 274:12 voted 211:6 220:16 vs 1:3 40:16 293:5 vying 264:5	66:20 71:18,21 74:14 143:10 152:4 168:18 221:9 226:10 272:11 whatsoever 215:12 whichever 139:21 Whitaker 4:11 191:5 192:3,9,10 193:8,11 white 22:11,12 23:4 32:2 46:8,9,11 73:12 73:19 74:13,18 217:8 219:1 255:19 258:11 wide 73:18 114:21 127:1 232:15 widely 203:17 wider 20:3 wide-ranging 35:10 widow 185:6,9 wield 166:20 wielding 169:17 wife 201:12 willing 10:21 11:3,15 234:20 278:15 winner 227:5 Winter 40:21 Wise 2:10 3:5 6:10 8:16,19 12:4,8,12 20:13,14,19 36:9,12 39:1,4 46:21 47:3,6 52:8,11 66:19 67:3,6 67:9,17 79:11,15 80:3 120:6,9 128:20 129:3 137:7 148:9 149:12 168:2,6,11 180:16,19 185:17 188:13 191:17,20 weight 164:18 165:15 184:13,14,14 Weiser 3:17 8:8 38:2 39:12,14 79:2 81:15 Weiser's 41:1 went 14:8 46:8 83:20 93:11 116:7 124:15 150:17 151:20 152:7 187:12 208:13 289:10 weren't 193:7 West 92:4,7,10,11,15 92:17 93:7,10,15 132:5 162:5 215:8 282:6 286:12 we'll 37:8 38:1 48:5 52:8 56:14 we're 10:12 30:8,13 31:1 32:9 33:12 134:3 144:20 153:11 168:13 198:18 200:13 276:2 288:14 we've 22:13 59:14 wolf 152:21
underscores 234:19	uses 121:13 203:6 244:20 266:1 270:6	33:2 64:12,12 72:15 98:1 101:11 145:2 167:4 170:11,11,16 171:1,7,18 172:5 175:8,17,19 176:3 177:16,21 183:14 184:3,9 200:5,6 203:18 204:9,17 210:2,5 213:7 226:12 227:7,11 232:19 233:14 234:20 235:1	

women 219:3	written 13:5 15:19	135:4 142:8 148:10	80:6 108:19 116:4	1992 59:6,16 86:19
Wood 6:18	40:6 41:7,12,15,15	168:11 176:1 179:3	146:10 199:6,7 275:8	1993 59:14,17 84:21
word 12:14,18 13:1	41:17,20 42:1,3,7,10	232:10 235:10	10th 245:18	151:10 238:15
34:6 75:20 112:4	42:14,16,21 54:6	245:17,20 247:11	10-fold 78:13	239:15 251:5 260:18
118:6,7 121:13,15,20	57:2,15,17,18 59:6	258:16 274:14	100 111:2	262:17 272:15,21
134:17 170:3,6	80:16 94:1,11,13	289:18	100-seat 269:4	283:10 284:12
179:10 200:2 201:5	98:9,11 99:5,11,21	year 47:10,13 59:14,20	10022 2:6	1995 82:9 83:11 100:9
221:19 223:12	123:14 185:21	61:15,19 96:16 99:3	1010 40:21	1996 233:4 275:6
229:20 230:3,5,6,9	199:10 225:12	126:4 128:17 129:9	105 6:18	277:12
230:12,14 232:15	wrong 199:16 247:2	132:19 133:7,21	1087 216:19	1997 100:9 279:21
260:4 280:3,17	wrote 13:13 26:9 57:7	152:1 206:9 220:14	11 18:21 29:14 30:14	2
words 42:15 73:13,19	58:14,17 81:3 94:15	267:15	33:17 108:20 239:1	2 1:10 3:3 4:5 39:6
113:16 204:12	94:15 98:12 100:20	years 19:21 20:10 24:7	262:2 275:8 293:1	59:19 185:19 195:3
226:15 235:2 259:6	130:13 134:19	34:2,15 35:9 36:21	11th 292:14	228:1 234:20 250:14
259:12 262:14 263:4	214:21 223:12	37:4 47:21 48:19	12 3:9,10 274:20 275:1	278:5 293:4,9
279:5,10,13	244:10 247:9	52:15,16 63:2 69:6	275:2,8	
work 3:18 8:10 23:2	W-E-I-S-E-R 38:2	83:17 87:21 96:1,17	12-year-old 174:15	2nd 68:3
24:19 36:20 48:4	W-H-A-B-B-I-S-M	97:16 99:4 101:3	175:1 177:4,15 184:8	2/35 130:1
54:21 55:20 56:5	231:16	135:15 136:8 163:18	275:20	20 3:12 24:7 66:21
72:16 82:4 99:12	X	174:17 208:3 220:10	12:20 208:18	197:4,10,13 200:3
171:5 205:20 231:8	Xeroxed 215:15 246:8	271:14 275:6 277:14	120 4:2	204:19
244:15	Y	Yep 178:18	129 4:3	2000 33:14,16 50:17
worked 14:20 39:18	YALOWITZ 2:4	Yigal 4:11 190:2,10	13 21:5 27:14 101:9	83:10 87:16 101:14
81:21 149:9 225:4	20:14 21:19 31:8	Yisrael 4:5	135:14 166:9 184:20	132:2 152:5 196:12
226:16 247:9	38:20 48:10 66:17	York 2:6 125:19	185:1,1 209:12	199:4 205:9 240:4
working 208:2 209:12	67:1,4 76:5 79:8,13	youth 182:13	137 4:4	243:12 258:2
219:6	80:1 91:16 99:8	youths 180:6	1377 5:3 219:10,20	2000-2004 33:5
works 72:20 130:1	105:16,20 107:11	YouTube 16:17 17:7	14 117:1,2,6,7 120:14	2000-2010 4:16
214:9	115:15 119:15	17:16,17 62:7,10	136:11 145:21 146:5	20005 2:13
world 4:13 83:18	132:17 148:6 168:9	77:17 101:20	146:6 154:19,21	2001 4:8 52:6 128:7
133:21 191:1 225:2	188:11 192:19	Y-I-G-A-L 190:2,10	155:4,5 166:11	180:4 182:9 258:3
228:18	200:16 208:15	Z	178:17 179:2 240:7	275:15
wouldn't 59:15,15	211:14 234:5 245:14	zero 19:16	240:18	2002 4:5 5:12 110:6
62:15 67:1 74:9	245:17 246:11 247:1	\$	14th 236:21	119:17,19 125:1,4
134:9 206:6 242:21	259:16 260:3,7 261:1	\$13,000 19:15,18	15 102:1 112:11,12	136:12 138:7 147:5
260:9 265:8 273:1	272:2 274:17 290:17	\$300 19:2	114:8 154:21 155:6	148:5 162:6 164:2
wounding 138:19	291:5,8,12	\$500 22:10 25:8	240:10 258:2,3 275:2	245:8 256:11
273:11	Yasser 5:5 11:20 32:6	\$700,000 24:21	288:6	2003 47:19 48:2
wow 36:6	42:8 130:20 132:11	0	15th 1:12 2:12 52:6	152:11
wrap 78:1 146:1	139:21 140:6,10,20	1	16 179:20 180:1,2,3	2004 33:14 37:7 47:11
wrapped 72:1	155:10 171:19	1 16:17,19 17:13 39:7	275:1	47:14 48:3,19 61:12
write 7:21 11:1,16	175:11 182:9 185:5,8	101:14 195:3 224:19	168 4:6 51:11	64:8 87:21 130:21
13:2 55:5 58:14 73:6	188:7,15 217:7 224:3	224:21 278:5 293:7	169 50:12 51:12,13,14	132:11 196:13 199:5
75:6 78:11 110:20	225:1,4 229:4 234:12	09 275:8	51:15 54:4 58:11	205:9
117:10 118:15	236:6 265:16 267:7	1	17 235:17 236:4,9,12	2005 37:7 87:21 88:1
126:13 180:3 223:9	270:17 273:8 278:21	1 16:17,19 17:13 39:7	236:14 238:2	91:19,21 254:9
224:21 228:6 233:19	288:18	101:14 195:3 224:19	176 52:4 58:5	2006 91:21 95:8 129:5
236:11 255:2 273:6	yeah 8:15 14:11 16:4,4	224:21 278:5 293:7	129:12 136:1 252:16	129:12 136:1 252:16
274:9,10 290:15	16:7,15 17:14 18:17	1,018 199:5	180 4:8	2007 95:8 129:7 136:1
writes 39:14	18:19 21:13 25:11,14	1,028 196:13 197:13	184 155:14	2008 236:21
writing 15:20 43:2,3	28:6 30:12 31:9	198:8 199:6,20	185 4:9 160:15	2009 198:10
43:13 44:9 45:14	41:12 43:11 44:8	1,178 198:9	191 4:11	2010 275:6
46:2,17 48:20 49:1	54:17 56:12 58:7	1,350 260:20	192 40:21	2011 225:8
78:21 165:2 205:8	62:10 67:19 70:3	1:00 208:17	194 4:12	2012 185:13,21 205:4
229:8 237:1 268:6	73:3 89:12 123:5	1:08 209:2	197 4:15	205:7 206:3 245:19
writings 38:18 41:2	124:10 127:8,9 133:4	10 20:9 50:12,13,16	1980s 150:7 235:20	260:16 261:11
46:14 94:3,11 99:15			1990s 82:9 159:19	2013 1:10 3:3,8 7:7,12
230:19			160:7	21:6 37:1 45:4 68:3

68:8 112:6 209:10 292:15 293:1,4 2014 45:9 202 2:14 221:7 203 108:17 109:18 110:13 112:14 114:8 209 217:6 21 3:8 12:15 138:14 182:13 246:20 21st 27:21 69:17 112:6 136:12 137:13,18 210 4:17 138:6 212 2:6 4:18 215 4:19 215-64-5044 6:21 217 4:20 164:1 219 5:3 22 7:7 209:9,14,15 212:9 22nd 7:11 15:7 112:9 223 5:4 225 5:5 23 215:4 257:11,12 23rd 68:7 139:5 182:9 237 4:8 238 3:7 5:6 6:3 7:2 18:21 22:13 23:2 24:1 25:9 27:6 33:17 44:14 46:12 117:3,4 154:20 155:3 239 3:8 8:16,18,20 9:1 9:8 12:1 13:17 111:19,21 24 182:8 220:18,19,20 240 3:9 12:5,7,13 13:1 13:16 241 3:10 12:8,11,18 13:2,16 28:5 242 3:12 20:18,20 22:2 26:13 286:18 243 3:13 36:9,11 46:20 243A 3:15 47:3,5 244 3:17 39:1,3 81:18 245 3:18 5:8 52:10,12 246 3:19 67:10,12 68:2 247 3:20 67:10,12 68:6 248 4:2 120:8,10 125:21 202:6 249 4:3 129:2,4 25 21:5 250 4:4 137:6 146:14 147:3,13,15 251 4:6 168:3,5,7,18 252 4:8 180:16,18,20 253 4:9 5:9 185:16 194:11 254 4:11 191:19,21 255 4:12 194:14,15,16	256 4:15 197:7,9 257 4:17 5:11 210:13 210:16 258 4:18 212:20 213:1 259 4:19 215:19 260 4:20 217:15,17 261 5:3,13 219:15,17 219:19 262 5:4 223:4,6 263 5:5 225:17 264 5:6 238:19,21 240:12 265 5:8 246:1,3,16 247:3,14,19 266 5:9 253:9,11 255:9 255:9 267 5:11 257:2,4 268 5:13 261:15 27 7:8 28 200:17,18 29 196:12 252:17 253:12 255:10	47 3:15 <hr/> 5 5 3:5 40:19 61:12 114:5 248:14 256:11 288:6 289:13 5/22/13 3:17 50 11:8 146:10 269:4 500 66:5 51 204:10 52 3:18 5500 4:17 210:10,18 211:9 220:2,6,7 5522 4:19 215:4 216:2 217:1 220:5 <hr/> 6 6 3:7 4:2 129:18 130:6 130:7,8 137:9,11 146:2,11 202:8 260:14 60 15:19 600 37:5 39:15 42:6 61:10 260:21 261:4 626-5800 2:14 655 1:12 2:12 67 3:19,20 69 52:1,3 53:10,11 <hr/> 7 7 155:11,16 164:8 211:21 7,000 272:14 700 20:9 71 53:18 54:1 58:4,6 58:10 715-1195 2:6 <hr/> 8 8 3:8 108:19 110:1,2 110:11 122:18,18 273:3 8:01 1:11 80s 151:8 81 163:20 85 138:10 86 136:15 138:19 87 217:5 <hr/> 9 9 4:8 108:19 112:13 9/11 152:6,13 90s 233:12,13 900 1:12 2:13 261:4 93 84:1 85:9 87:11,13 95 83:20 84:1,21 85:10 87:11,13 97 101:4	98 83:20 99 101:4
---	--	---	------------------------------------